

(2023) 04 TEL CK 0068

In the Telangana High Court

Case No : Criminal Revision Case No. 255 Of 2023

Mohd. Kamranullah Khan Minor

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 24-04-2023

Acts Referred:

Juvenile Justice (Care and Protection of Children) Model Rules, 2016 — Rule 10(5), 10(6)

Juvenile Justice (Care and Protection of Children) Act, 2015 — Section 102

Citation : (2023) 04 TEL CK 0068

Hon'ble Judges : G.Anupama Chakravarthy, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. This Criminal Petition is filed by the petitioners/A1 to A8 to quash the proceedings in C.C.No.9406 of 2021 on the file of III Additional Chief Metropolitan Magistrate, Hyderabad.

2. The 2nd respondent filed a private complaint before the III Additional Chief Metropolitan Magistrate, Hyderabad, which was referred to the police for the purpose of investigation and registered as Crime No.211 of 2021 on 09.03.2021 for the offences under Sections 379, 447, 506, 341, 342, 120-B r/w 34 of IPC and Section 156(3) of Cr.P.C.

3. The allegation in the complaint is that A1 is the wife, A2 is the son and other petitioners are relatives and friends of defacto complainant. It is alleged in the complaint that the defacto complainant is the Managing Director of Anjana Explosives Limited. A3, A6 to A9 were interfering with the personal life of the complainant and threatened him. A1 and A2, who are wife and son used to fight with him and threaten him.

4. On 10.03.2019, A6 to A9 held meeting at Kakinada and threatened the defacto complainant to transfer properties standing in his name in favour of A1

and A2, failing which he has to face dire consequences. At the instance of A6 to A9, A1 to A3 committed theft of property documents of the complainant. A3 made duplicate keys of the office main door with an intention to commit theft of the valuable documents of M/s.Anjana Explosives Limited. Accordingly, on 24.05.2019 using duplicate keys, office premises was opened and committed theft of; i) agreement with different purchasers and customers of the company; ii) cheques issued by purchasers, customers of company towards security for the credit supplies; iii) personal property documents; iv) land papers/land allotment papers issued by the Government of Telangana in favour of Anjana Explosives and Rs.18.00 lakhs cash. Having committed theft, they went away locking the premises. He had faced problems on account of the documents being taken away by the wife and others. He incurred nearly loss of Rs.10.00 Crores on account of the acts of these petitioners.

5. Learned counsel appearing for the petitioners would submit that the complaint is filed with a delay of nearly one year and ten months. No reasons are stated in the complaint regarding the delay. Due to family disputes, false complaint was filed by implicating all the petitioners.

6. On the other hand, it was argued on behalf of the 2nd respondent that these are all questions of trial which can be decided by the trial Court. The CCTV footage was available which was handed over to the police and is part of evidence. Accordingly, petition has to be dismissed.

7. As seen from the record, the alleged incident happened on 25.04.2019. Private complaint was filed on 04.01.2021. Admittedly, no seizures were affected from any of the petitioners. The list of witnesses is the complainant himself and two of his other employees. There is no investigation as to how the petitioners i.e., A1 and A3 have entered into the premises. No investigation is done to show that a duplicate key was made for the purpose of entering into the premises.

8. The entire investigation is based on the complaint made and charge sheet is also filed on the basis of the statement of complainant. There is no explanation as to why there is a delay of one year and eight months. Admittedly, A1 is the wife and A2 is the son of the defacto complainant. There are family disputes regarding properties. In the back ground of the said disputes and the inordinate delay in lodging the complaint, false implication is apparent. To attract an offence of theft, immovable property should have been removed without the consent of the complaint. Though the complainant claims that several documents, cheques were missing, nothing was seized from the petitioners. Specific details of documents are not given but vaguely stated that several property documents and other business documents were seized. No witnesses are examined, who are parties to the alleged documents subjected to theft, to speak about them.

The question of restraining or threatening the complainant does not arise, to attract the offences under sections 341 and 506 IPC. Except stating that the petitioners have threatened with dire consequences, utterances made is not

mentioned. Further, the alleged threatening was on 10.03.2019.

9. On account of the inordinate unexplained delay in lodging the complaint and in the back ground of the property disputes among the family members, this Court deems it appropriate to quash all further proceedings when none of the ingredients of any of the provisions are made out.

10. The Hon'ble Supreme Court in the case of State of Haryana and others v. Ch.Bhajan Lal and others (1992 AIR 604), had enunciated the principles for use of the extraordinary power under Article 226 of the Constitution of India, wherein it is held as follows:

"(7) where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal knowledge."

11. In the result, the proceedings against petitioners in C.C.No.9406 of 2021 on the file of III Additional Chief Metropolitan Magistrate, Hyderabad, are hereby quashed.

12. Accordingly, the Criminal Petition is allowed. Consequently, miscellaneous applications pending, if any, shall stand dismissed.