
(2013) 09 AP CK 0007

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 13649 of 2010

N.V.S.K. Prasad

APPELLANT

Vs

State of A.P. and Another

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Citation : (2014) 1 ALD(Cri) 357

Judgement

Raja. Elango, J.—This Criminal Petition is filed by petitioner-accused No. 2 seeking to quash the proceedings against him in C.C. No. 230 of 2007 on the file of the IV Additional Chief Metropolitan Magistrate, Hyderabad. It is stated in the complaint by the 2nd respondent-complainant that he along with his brother-in-law went to Usha Kiran Arcade Vidyanagar on being called by Ranganayakulu (A3) to settle the dispute between his brother-in-law and A3. When they went there, Dilip Kumar (A1), S/o. Ranganayakulu took them to their flat on upstairs and rang up the bell and thereupon, the petitioner-N.V.S.K. Prasad (A2), S/o. Ranganayakulu came there and started beating his brother-in-law and when he intervened, A2 tried to throttle him and brought a knife. It is further alleged that they snatched chain and bracelet and A1 snatched chain and there were about 10 anti-social elements in their house and they threatened them. Basing on the complaint given by the 2nd respondent, a case in Crime No. 151 of 2004 of Nallakunta P.S, was registered, for the offence under Sections 323, 506 and 379 r/w 34 IPC. After filing the charge sheet, the case was taken on file and numbered as C.C. No. 230 of 2007.

2. The case of the petitioner is as follows:

His mother Smt. Usha Rani was the owner and possessor of H. No. 2-2-5, OU Road, Vidyanagar, Hyderabad and she entered into development agreement with the builders of M/s. Praveen Constructions. Subsequently, she died. One P. Janapa Reddy (L.W.2) is one of the partners of the said construction company. The builders have constructed apartments on the said land. It is stated that there is a longstanding dispute between the builders and his family. While so, on

2.6.2004 at about 7.30 p.m., L.W.2 along with the complainant and others have entered into their house and assaulted them. Then, the petitioner and his family members in retaliation assaulted the 2nd respondent with hands.

3. The learned Counsel for the petitioner submitted that they filed a complaint against the de facto complainant and others and the same was registered as Crime No. 150 of 2004 for the offence u/s 354, 323, 325 and 448 r/w 34 IPC.

4. It is brought to the notice of this Court that A1 and A3 in the above C.C. were acquitted and the case against the petitioner-A2 was split up and the same is numbered as C.C. No. 767 of 2012. A copy of the judgment in C.C. No. 230 of 2007 is placed before this Court.

5. Perused the judgment of the trial Court in C.C. No. 230 of 2007. The trial Court acquitted A1 and A3 in C.C. No. 230 of 2007 on the following grounds:

P.W.1- P. Janapa Reddy, who is cited as eye witness to the incident, in his cross-examination admitted that no document is filed to show that Usha Rani entered into Development agreement with Venkatappa and Chandraiah and that he financed for the development of flats. He admitted that the builders have not authorized him to negotiate with the accused persons with regard to the purchase and payment towards flat. All the said admissions clearly give room for doubt as to whether- any such incident took place and also as to the presence of the accused at the scene of offence. Moreover the de facto complainant-cum-injured, who is a material witness to the case of the prosecution, has not been examined before the Court and there is no evidence of trespass and as such, the further allegation that the accused persons assaulted the de facto complainant cannot be believed.

6. The above observation made by the learned trial Judge in the above C.C. No. 230 of 2007 made it clear that the occurrence is doubtful. In the complaint, it is alleged that A1 to A3 together committed the above offence. In view of the fact that the trial Court acquitted two of the accused, whose cases stood on similar footing as that of the petitioner, this Court is of the view that this is a fit case to quash the proceedings against the petitioner-A2. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner-A2 in C.C. No. 767 of 2012 on the file of the IV Additional Chief Metropolitan Magistrate/ Hyderabad. Consequently, the Miscellaneous petitions pending, if any, stand closed.