

The present complaint has been filed by the complainant against the accused persons U/s 200 of Crpc to invoke jurisdiction U/s 419, 420, 447, 465, 468, 323, 504, 506 r/w Section 34 of IPC.

2. It is the case of complainant that, he is the absolute owner and in possession over the property bearing Sy.No.72A measuring 1.50 acres of Cikkaballari Village, same was acquired under partition deed. The accused No.1 encroached 49.50 Sq. meter over the said property,

thereafter he colluded with revenue officials and create katha No.370 in respect of said property. Thereafter the accused No.1 without any right, title and interest over the said property colluded with accused No.3 and given rights to accused No.3 to put up a hut in the said property. Thereafter the accused NO.2 without obtain any license from concerned authority made an attempt to put up hut on 21.5.2021. On that time, the complainant interfere with the construction, at that time, the accused Nos.2 to 5 gave life threat to complainant. Thereafter on 24.5.2021 the accused persons put up a shed in the said property and put up a petty shop in the said property. The complainant asked the accused persons to stop construction, but the accused persons colluded with revenue officials and created false documents, thereafter on 31.5.2021 the complainant lodged complaint before jurisdictional police, but the police have issued endorsement on 9.6.2021 by stating that the matter is civil in nature. Therefore, the complainant has filed this complaint seeking direction to the police to investigate the matter.

3. Heard the learned counsel for the complainant and perused the documents produced along with complaint.

4. On the perusal of the complaint it clearly shows that there was a dispute between the complainant and accused persons in respect of property bearing Sy.No.72/2 of chikka Ballari Village. It is the contention of the complainant that he is the absolute owner and in possession over the said property. He acquired said property under family partition. The accused No.1 encroached the said property and given rights to accused No.3 to put up hut in the said property. The complainant

has produced the katha extract demand register of the property. On the perusal of the said katha extract and demand register, it shows that the katha No.370 is standing in the name of one Venkatraju S/o Ramakrishna Raju i.e., accused No.1. It is the contention of the complainant that the accused No.1 colluded with revenue official created said documents. Said documents are public documents and maintained by revenue officials. Said entries are changed by revenue officials during the course of their official duty, if the complainant aggrieved by the said entries, he can file appeal before the concerned authority to challenge the said entries. If the accused No.1 made encroachment in the property of complainant he can approach jurisdictional Court for his appropriate remedy.

5. It is the contention of the complainant that the accused persons have illegally trespassed over his land and made an attempt to put up construction. At that time, the complainant requested them to not to put up any construction. At that time, the accused persons picked up quarrel with the complainant and gave life threat. On perusal of the said facts, it shows that in the entire petition and the complaint copy which is said to have been given to the police, he has not stated about exact time of incident, exact place of incident. Therefore, the allegations are absolutely vague without disclosing the time and place of incident. It is the contention of the complainant that the accused persons picked up quarrel with him and gave life threat. But no specific details are mentioned as to the exact person who assaulted him and what are the injuries sustained by him. Therefore the allegations are fully vague, bald and unspecific. Therefore, the Court normally would not exercise the power under Section 156(3) of the Cr.P.C.

6. It is well settled that where a jurisdiction is exercised in a complaint filed in terms of Section 156(3) of Cr.P.C and Section 200 of Cr.P.C, the Court is required to apply its mind. The Criminal law cannot be set into motion as a matter of course. In the Judgment of Hon'ble Apex Court reported in **(2015) 6 SCC 287-between Priyanka Srivatsava and Another V/s State of Uttar Pradesh and others**, it is held that the remedy available U/s 156(3) of Cr.P.C. is not of routine nature and while exercise of power thereunder requires application of Judicial Mind and the magistrate exercising the said power must remain vigilant with regard to nature of allegation made in the application and not to issue directions without proper application of mind. The relevant portion of this Judgement is as follows:

27) Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order.

31. At this stage it is seemly to state that power under section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of section 154 of the Code. A litigant at his own's whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigation takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.

7. In the present case the complainant has not produced the records of rights. Moreover on the perusal of the entire complaint averments it does not disclose any cognizable offence, moreover the allegation made by the complainant are civil in nature. The allegations made in the petition do not constitute any offence punishable under law and no case is made out against the accused persons, since the allegations are unspecific and vague. Therefore on the basis of these vague allegations, the proceedings cannot be continued. Hence, the present complaint is not maintainable. Therefore I proceed to pass the following.

ORDER

The complaint filed by the complainant
U/s 200 of Cr.P.C. is hereby rejected.

Civil Judge and JMFC Siruguppa