

IN THE COURT OF SESSIONS JUDGE, VIZIANAGARAM

Present: Sri B.Sai Kalyan Chakravarthi
Sessions Judge

Wednesday, this the 26th day of June, 2024

Criminal Revision Petition 21/2022

Between:

01. Thirumalaraju Samba Murty Raju @ Sambaraju, S/o Gurumurthy Raju, aged 75 years, Hindu, resident of Boddavara village, Srungavarapu Kota Mandal, Vizianagaram District.
02. Thirumalaraju Vijaya Raju @ Sekhar, S/o Samba Raju, aged about 43 years, rest ditto.
03. Pederedla Ramakrishna, S/o Venkanna Patrudu, aged about 40 years, resident of Railway Station Road, Srungavarapu Kota Mandal, Vizianagaram District. ...Revision Petitioners

A n d:

01. Padala Venkata Reddy, S/o late Venkata Reddy aged about 54 years, resident of Srungavarapu Kota village and Mandal, Vizianagaram District.
02. Padala Adilakshmi, W/o Venkata Reddy, aged about 55 years, rest ditto.
03. Padala Sivananda Reddy, S/o Venkata Reddy, aged about 31 years, rest ditto.
04. Padala Satish Reddy, S/o Venkata Reddy, aged about 28 years, rest ditto.
05. The Mandal Executive Magistrate cum Tahsildar, Srungavarapu Kota.
06. State of Andhra Pradesh represented by the Public Prosecutor, Vizianagaram ...Respondents

On revision against the order passed in MC No.55/2022, dt.12.12.2022 on the file of the Mandal Executive Magistrate & Tahsildar, Srungavarapu Kota

Between:

State represented by the Sub Inspector of Police,
Srungavarapu Kota ... Complainant

A n d:

A-Party:

01. Padala Venkata Reddy
02. Padala Adilakshmi
03. Padala Sivananda Reddy
04. Padala Satish Reddy

B-Party:

01. Thirumalaraju Samba Raju

02. Thirumalaraju Vijaya Raju @ Sekhar

03. Pederedla Ramakrishna ... Respondents

The Revision Petition coming on 19.06.2024 for final hearing before me in the presence of Sri Ch.Rambabu, Advocate for the revision petitioners and of Sri Ch.R.Ch.Prasad, Advocate for the respondents 1 to 4 and having stood over for consideration to this date, this Court passed the following:

O R D E R

01. This Revision Petition is filed under Section 397 of the Code of Criminal Procedure challenging the order in MC No.55/2022, dt.12.12.2022 passed by the Mandal Executive Magistrate & Tahsildar, Srungavarapu Kota.

02. The brief facts of the case before the learned Executive Magistrate are: both the Revision Petitioners and the Respondents styled as “A” Party and “B” party lodged complaint against each before the Police and both parties are disputing with each other regarding the land disputes among them in their village and both the parties are living by doing their respective businesses. There was a land dispute among them and they have been quarreling for two months with each other by abusing each other and continuously creating nuisance to the village people by disturbing the public tranquility as such the same is informed to the learned Magistrate under Section 107 of Cr.P.C., to give direction to both parties to bind over for their good behaviour in order to prevent breach of peace in the village.

2.1. According to “A-Party”, they are claiming that the 2nd respondent in A-Part viz., Padala Adilakshmi is the absolute Owner of the property in question having purchased the same vide registered sale deed on 03.01.2019 from Penuganti Gowreeswaramma and her two sons and

obtained physical delivery of the property on the same day and ever since she has been in physical possession and enjoyment of the property in question openly to the knowledge of all the villagers including “B-Party”. According to “B-Party” they are claiming that the 1st respondent in B-Party viz., Thirumalaraju Samba Raju is the absolute owner of the property in question having purchased the same under a registered sale deed dt.14.09.2022 from Padala Adilakshmi (2nd party in A-Party) through her GPA Holder and ever since he has been in physical possession and enjoyment of the same to the knowledge of all the villagers including “A-Party”.

2.2. The learned Magistrate also noticed and mentioned in his order that the 1st respondent in B-Party filed a suit in O.S.186/2022 on the file of the Junior Civil Judge’s Court, Srungavarapu Kota against the members of A-Party. The learned Magistrate also noticed and mentioned in his order that one Mopada Gowri Naidu also filed a suit for specific performance in O.S.199/2022 against Padala Adilakshmi (2nd respondent in A-Party), Thirumalaraju Samba Raju (1st respondent in B-Party) and the above civil suits are pending and yet to be adjudicated by the Civil Court. The learned Executive Magistrate, while referring to the observations of the Hon’ble High Court in U.Ramanjaneyulu Vs. State of Andhra Pradesh, directed both the parties to maintain *status quo*.

03. Questioning the findings of the learned Executive Magistrate, the unsuccessful persons in B-Party/Revision petitioners preferred the present revision contending that the order passed by the learned Magistrate is contrary to Law, weight of evidence and probabilities of the case.

3.1. The learned Magistrate, while passing the order under revision failed to give any reason while answering point No.3 and he referred the legal possession, but no specific reason is given to pass the *interim* orders and hence the said order is liable to be set aside.

3.2. The order of the learned Magistrate based on the principle “prevention is better than cure” which is unknown to the Criminal Law and hence the said order is liable to be set aside.

3.3. The learned Magistrate erred in assuming the role of Civil Court by holding that the revision petitioners are not having any possessory right in the property in question till now and in order to pass orders under Section 107 of Cr.P.C., the 5th respondent crossed the limitations of his jurisdiction and hence the said order is untenable under Law.

3.4. The learned Magistrate erred in invoking Article 300 of Indian Constitution and assumed jurisdiction of constitutional courts and hence the order of the learned Magistrate is without jurisdiction.

3.5. In and among other grounds, the revision petitioners prayed to allow the revision by setting aside the order passed by the trial Court.

04. On the other hand, the learned Counsel for the respondent supported the findings of the trial Court and submitted that there is no embargo for initiation of proceedings under Section 107 of Cr.P.C., to maintain the public tranquility in the village and thus prayed to dismiss the revision.

05. Heard both sides.

06. Now, the point for determination is;

Whether the initiation of proceedings under Section 107 of Cr.P.C., by the learned Magistrate suffers from any irregularity or illegality?

Point:

07. The vehement contention of the revision petitioners is that the learned Magistrate even had gone to the extent of recording findings as if a Civil Court and also a constitutional Court without jurisdiction. He further submitted that whenever the civil litigation is pending in between the self-same parties, the Executive Magistrate cannot invoke the jurisdiction of Sections 145 and 107 of Cr.P.C., and further submitted that *ex facie* the order of the learned Magistrate shows that he has knowledge regarding the civil suits and in such circumstances, the order of the trial Court suffers from legal infirmities .

08. *Per contra*, the learned Counsel for the respondents, while supporting the order of the learned Magistrate, submitted that even though civil litigation pending, the executive Magistrate is totally not powerless and though cannot initiate proceedings under Section 145 of Cr.P.C., but can initiate under Section 107 of Cr.P.C. or can pass orders preventing the parties from causing disturbance to the public tranquility, hence there is no illegality in the order of the learned Magistrate.

11. Obviously, the power of Executive Magistrate is to pass an order under Section 145, Cr.P.C as a preventive measure but not as a decisive with regard to title, boundaries of the property, however, in the case on hand, the learned Magistrate directed both the parties to maintain *status quo* to avoid wranglings among them so that to maintain peace in the village situation. In support of contentions, he relied on a judgment

reported in **U.Ramanjaneyulu Vs. The State of Andhra Pradesh**, wherein, it was observed that:

“12. ... Needless to emphasize if the parties despite pendency of the civil suit bent upon causing breach of public peace and tranquility, the executive Magistrate is authorized to initiate proceedings under Section 107, Cr.P.C...”

With due regards, the ratio laid down in the above judgment aptly applicable to the case on hand, for the reason, the learned Executive Magistrate in his order categorically mentioned that pending finality of the civil litigation, both parties shall maintain *status quo* as on the date of disputes and before registration of crimes only with a view to avoid disturbance to the public peace, which amply comes within the ambit of Sub Section (2) of Section 107 of Cr.P.C., Hence, this Court does not find any illegality or irregularity in the order passed by the learned Magistrate warranting interference by this Court and thus the revision is *devoid* of merit and liable to be dismissed. Accordingly, this point is answered.

12. **In the result**, the revision petition is **dismissed confirming** the order passed by the learned Executive Magistrate cum Tahsildar, Srungavarapu Kota in M.C.No.55/2022, dt.12.12.2022, but under the facts and circumstances, each party do bear their own costs.

Typed to my dictation, corrected and pronounced by me in open Court, this the 26th day of June, 2024.

Sd/- B.Sai Kalyan Chakravarthi
Sessions Judge,
Vizianagaram