THE HONOURABLE SRI JUSTICE M.LAXMAN

CRIMINAL PETITION No.6096 OF 2019

ORDER:

1.	The present Criminal Petition is filed under Section 482 of Cr.P.C., seeking to quash the proceedings against the petitioners/accused Nos.1 to 4 in C.C.No.33 of 2019 on the file of II Additional Junior Civil Judge-cum-X Additional Metropolitan Magistrate, Cyberabad at Kukatpally, registered for the offences under Sections 447 and 427 of I.P.C.

2.	The sum and substance of case of the prosecution is that the complainant is the absolute owner and possessor of open plot admeasuring 1391.50 square yards, situated in part of Sy.No.14/B, Bachupally Village, Quthbullapur Mandal, Ranga Reddy District, having acquired the same by way of a gift deed obtained from his mother, who purchased the same under a registered sale deed. The complainant is also enjoying the road by way of easement. While so, on 24.01.2009. Mr. Kolan Hanumanth Reddy and his accomplices allegedly trespassed into the plot of the complainant and prevented the complainant from constructing compound wall. A private complaint was lodged against the petitioners in the year 2017 relating to the offence allegedly occurred in the year 2009. The Police, basing on the

above complaint, issued FIR initially against Mr. Kolan Hanumantha Reddy and others, but subsequently charge sheet is filed deleting the name of Mr. Kolan Hanumantha Reddy and charge-sheeting accused Nos.1 to 4, who are the petitioners herein.

3.   A perusal of charge-sheet shows that the complainant was examined as LW-1, Mr. Kothval Krishna Reddy was examined as LW-2. Mr. Devarapally Chinna Venkateshwarlu (LW-3) and Smt. Shivaleela (LW-4) were cited as Panch Witnesses. LWs. 5 to 7 were cited as Divisional Accounts Officer, HMDA; Mr. Moulana Executive Officer, Gram Panchayat and Mr. Raj Kumar, Panchayat Secretary, Bachupally Village, apart from investigating officers. The only witness to the alleged trespass is LW-1. In the statement of LW-1, he has named only Mr. Kolan Hanumantha Reddy and his accomplices, who trespassed into his plot, but he did not refer the names of the petitioners/accused Nos.1 to 4.

4.   In the entire statements of witnesses examined by the investigating officer, absolutely there is no reference about the interference of the petitioners, who are arrayed as accused Nos.1 to 4 in the Charge sheet. Their names were mentioned neither in the FIR nor in the private complaint and their names were also

not referred by any of the witnesses including the complainant, who is the only eye-witness. The charge-sheet is filed without any basis and no reasons were assigned by the investigating officer why the name of Mr. K. Hanumanth Reddy was deleted while filing the charge-sheet, even though LW-1 in his statement has clearly referred the name of Mr.K.Hanumanth Reddy and his accomplices. This is a clear case of abuse of process. On account of improper investigation, the petitioners were unnecessarily subjected to criminal prosecution and undergone mental agony. Therefore, this Court is inclined to quash the criminal proceedings by awarding exemplary costs of Rs.25,000/-.

5. In the result, the Criminal Petition is allowed. The proceedings against the petitioners/accused Nos.1 to 4 in C.C.No.33 of 2019 on the file of II Additional Junior Civil Judge-cum-X Additional Metropolitan Magistrate, Cyberabad at Kukatpally, are hereby quashed. Respondent No.1-State is directed to pay costs of Rs.25,000/- (rupees twenty five thousand only) to the petitioners/accused Nos.1 to 4. The said amount shall be equally apportioned to the petitioners/accused Nos.1 to 4. Respondent No.1-State is at liberty to recover the said amount from the concerned investigating officer, who filed the

charge-sheet. The said amount shall be paid by respondent No.1-State within two (2) months from the date of receipt of a copy of this order, failing which the petitioners/accused Nos.1 to 4 are at liberty to initiate contempt proceedings. Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE M. LAXMAN

Date: 30.06.2023
TJMR