IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY, THE TWENTY FIFTH DAY OF MARCH TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

CRIMINAL PETITION No.6584 of 2008

Between:

Bingi Rajesh Goud,
S/o. Eshwara Goud,
Aged about 23 years, R/o. H.No.2-7-6,
Bharat Nagar, Uppal Mandal,
Ranga Reddy District & 2 others

.. Petitioners

AND

The State of A.P.,
Rep. by its Public Prosecutor,
High Court of A.P., Hyderabad & another

.. Respondents

The Court made the following:

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ORDER:

The claim of the petitioners is that they have purchased land to an extent of Ac. 8.20 guntas in Survey No.428/1 of Gandlagudem Village, H/o. Alair Village, Alair Mandal, Nalgonda District, under registered Sale Deed bearing Document No.394, dated 12.03.2003. The Sale Deed was presented and after scrutiny and the declaration made, it was registered and released. To their surprise, show cause notice, dated 03.05.2003, was issued by the District Registrar, Nalgonda District (1st respondent), holding that there was under-valuation of the property and the market value of the property works out to Rs.14,79,500/-, but the document was written on stamp paper of Rs.37,500/- only. In terms of the valuation of the property, the petitioners were liable to pay stamp duty for an amount of Rs.1,62,745/- and, therefore, there was a deficit stamp duty of Rs.1,25,245/-. In addition, penalty of Rs.3,75,735/- was also imposed and, thus, the petitioners were directed to pay an amount of Rs.5,06,680/-. The petitioners claim that the said notice was received by them on 16.05.2003. On 19.05.2003, the petitioners filed explanation. The petitioners disputed the valuation arrived at by the District Registrar, Nalgonda District, and contended that the valuation, as disclosed in the document, was valid and there is no justification for showing the higher value and imposing higher stamp duty. On 25.07.2003, the District Registrar, Nalgonda, passed orders holding that in spite of the demand made, the deficit stamp duty was not paid and failed to appear before the authorized officer within the stipulated time and, therefore, in accordance with the provisions contained in the Indian Stamp Act, 1899, prosecution is launched on the allegation of suppression of facts under Sections 27, 64 and 64A of the Indian Stamp Act, 1899, and Section 82 of the Registration Act, 1908. Aggrieved thereby, W.P.No.18691 of 2003 is filed. By order, dated 20.01.2004, W.P.No.18691 of 2003 was disposed of. The Court held that as filing of explanation, dated 19.05.2003, was not denied the finding of the authority that the petitioners have not responded to the show cause notice and failed to appear before the Authorized Officer cannot be countenanced. Having recorded the said finding, the respondents were granted liberty to pass final orders pursuant to the show cause notice, dated 03.05.2003. In pursuant to the orders of this Court in the above writ petition, by notice, dated 04.05.2004, the 1st petitioner was informed that he may approach the Sub-Registrar, Yadagirigutta (2nd respondent), for re-conducting of spot inspection of the property on 17.05.2004.

2. Alleging that in spite of giving opportunity to the first petitioner, he did not appear before the Sub-Registrar, Yadagirigutta, and has not availed the opportunity provided to him, the District Registrar, Nalgonda, issued final notice on 18.02.2005 holding that the first petitioner is liable to pay the deficit amount of Rs.5,06,680/- within seven (7) days from the date of receipt of the Memo. He was also informed that the prosecution would be

launched against him. In pursuant to the said decision, crime was registered against the first petitioner. After investigation charge sheet was filed in C.C.No.277 of 2005, on the file of the Judicial First Class Magistrate, Bhongir, re-numbered as C.C.No.307 of 2006, on the file of the Additional Judicial First Class Magistrate, Bhongir. Challenging the same, the petitioners filed this criminal petition to quash the criminal proceedings.

3. Challenging the final notice, dated 18.02.2005, the petitioners filed W.P.No.10345 of 2006. Vide separate orders, today the W.P.No.10345 of 2006 is allowed setting aside the final notice, dated 18.02.2005, and remitting the matter back to the District Registrar, Nalgonda, for re-consideration. Unless the matter is re-considered and a final decision is taken on the liability of the petitioners to pay deficit stamp duty and penalty as well as higher registration fee and petitioners fail to comply thereon, no criminal prosecution can be launched or continued.

4. Having regard to the same, the Criminal Petition is allowed and C.C.No.277 of 2005, on the file of the Judicial First Class Magistrate, Bhongir, re-numbered as C.C.No.307 of 2006, on the file of the Additional Judicial First Class Magistrate, Bhongir, is quashed. However, after a final decision is taken on the issue of wrong valuation of property for registration and payment of less stamp duty and registration charges than what is payable, it is open to the competent authority to take such course, as warranted by law. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

P.NAVEEN

RAO, J

Date: 25th March, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

CRIMINAL PETITION No.6584 of 2008

Date: 25th March, 2015

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