

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITIONS No.10150, 10615, 10635 and 10801 of 2015

COMMON ORDER:

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1. Since all the criminal petitions arise out of one and the same crime, these petitions are heard together and being disposed of by this common order.

2. The above Criminal Petitions are filed by the petitioners-accused under Section 438 Cr.P.C. seeking to grant anticipatory bail to them in FIR No.543 of 2015 on the file of Madhapur Police Station (Guttala), Cyberabad, Ranga Reddy District, registered for the offences punishable under Sections 419, 420, 468 and 471 IPC.

3. The allegations made in the complaint are as follows:

(i) The de facto complainant-A. Srinivas was the owner of Ac.2.00 land in Sy.No.70 of Madhapur Village, Serilingampally Mandal, R.R. District. He purchased the said land in the year 1988 from its previous owner-Baddam Chinna Mallesh, S/o late Balla Mallaiah. The de facto complainant sold his land in the year 1995 viz., an extent of Ac.1.05 guntas in favour of G. Radhamma and four others and Ac.35 guntas in favour of B. Sunil Kumar and three others. He also delivered possession of the same in the year 1995 itself.

(ii) The father, mother, elder brother of the de facto complainant and the de facto complainant owned Ac.6.00 of land in Sy.No.70 of Madhapur village. The land stood in the name of his father, mother and brother was sold to others in the year 1995. There is another extent of Ac.2.35 guntas of land in Sy.No.71 of Madhapur village in the name of his brother and mother. The same was also sold in the year 1995 to third parties along with the land in Sy.No.70. After the sale in the year 1995, an extent of Ac.0.05 guntas was left by the purchasers at their request. The brother of the de facto complainant constructed a house in the said Ac.0.05 guntas about 17 years back. The entire land owned by their family in Sy.Nos.70 and 71 was a single compact piece of land and the same was used for paddy cultivation and brick kiln.

(iii) Out of an extent of Ac.8.35 guntas land in Sy.Nos.70 and 71 in Madhapur village earlier owned by them, except an extent of Ac.1.15 guntas, the entire extent was earmarked for recreation zone as per master plan notified by the then HUDA. The purchasers of Ac.8.35 guntas of land in Sy.Nos.70 and 71 of Madhapur village wanted to develop the same into residential lay out. Since the major portion of the land is falling in recreation zone, they made an application to the Government of A.P. for conversion of the said land from Conservation (agriculture) zone to residential zone. The Government after obtaining remarks from HUDA, had issued draft variation proposing for conversion of Ac.7.20 guntas of agricultural land in Sy.No.70 part and 71 part of Madhapur village, Serilingampally Mandal, Ranga Reddy District, which was earmarked for conservation zone in the notified Zonal Development Plan for Kukatpally zone of Non-municipal area, to be designated as Residential Zone. The Government called for objections and suggestions.

(iv) As no objections were received, the Government issued G.O. dated 14.5.1996 notifying confirmation of proposed draft variation of the land use from agriculture use to that of residential use with a condition that the applicants should obtain prior permission from HUDA before undertaking any development on the site. After conversion of the land use, the purchasers made an application on 9.5.1996 to HUDA for development of the residential lay out. On 30.11.1996 the HUDA granted preliminary lay out. Then, the development activity was carried out on the subject land. After development of the land, HUDA granted final lay out to Ac.8.35 guntas land in Sy.Nos.70 and 71 of Madhapur village with a condition that the applicants should hand over the roads and common areas to Serilingampally municipality. The common areas and roads were handed over to Serilingampally municipality as per the conditions of the final lay out and final lay out came to be released on 26.12.1997. The lay out is known as Silicon Valley and is bounded by single compound wall.

(v) In all, there are 54 plots in the Silicon Valley and number of transactions have been taken place in the lay out resulting in change of ownership. More than 40 buildings of residential and commercial have come up in the lay out. The brother of the complainant constructed a house in Ac.0.05 guntas and the same is in the beginning of the lay out.

(vi) One B. Sunil Kumar and J. Madan Mohan Rao (purchasers) approached

the de facto complainant and showed an agreement of sale-cum-GPA documents executed in the year 2007 by referring to the land earlier owned by the de facto complainant in Sy.No.70 of Madhapur village. They asked him to confirm his signature on the documents and the transaction. The documents showed to him are five agreements of sale-cum-GPA and the corresponding rectification deeds. The agreements of sale-cum-GPA were executed in the year 2007 and the rectification deeds were executed in the year 2011. In the said documents, the de facto complainant was shown as vendor/first party and the second parties/vendees are some unknown persons. Bogus documents were brought into existence by somebody by impersonating the de facto complainant in respect of 800 sq. yards.

(vii) The agreements-cum-GPA were initially registered with different boundaries and four years later, the boundaries were changed through the rectification deeds in the year 2011. In all the above deeds, there is reference to Ac.2.00 of land in Sy.No.70 of Madhapur village purchased by the de facto complainant in the year 1988. As per the averments in the said documents, the agreements of sale-cum-GPA were executed in respect of the said Ac.2.00 of land. The close examination of the photograph of alleged Aila Srinivas on the said documents, it appeared to be as that of a different person. The signature of the documents of the vendor/first party also appears to be different as that of the de facto complainant.

(viii) The vendors/first party and vendees/second parties in all the five documents viz., agreements of sale-cum-GPA and rectification deeds appears to be the activities of a gang involved in creation of false identities, fabrication of documents and indulge in land grabbing. In order to black mail the real owners and to grab the land, a sham transaction was created.

(ix) Based on the false documents claiming themselves as real owners and impersonating the de facto complainant, they seem to have lodged a police complaint on 10.4.2012 alleging land grabbing against Jai Hind Reddy and Shoba Nagi Reddy, member of legislature. Later, on the same set of facts they filed another complaint on 20.6.2012 alleging land grabbing against the same persons and the persons, who purchased the land from the de facto complainant in the year 1995. Some of the persons named in the said complaints are not alive and some of them are very old and they cannot move out. In the complaint, it is alleged that the documents executed by the de facto complainant in the year 1995 alienating Ac.2.00

of land in Sy.No.70 of Madhapur village, were not executed by the de facto complainant and by impersonation, they were fabricated.

(x) Some person is impersonating the de facto complainant and executing false documents and filing false complaints and apart from that, taking advantage of the fact that there was no system existing as to the fastening of the photographs in the year 1995, they have created false identity and executed documents. On the basis of the fabricated documents, they are approaching courts of law and obtaining orders and based on the same, they intend to grab and occupy the land adjacent to the lay out, which belongs to the persons, who sold the land to the de facto complainant.

4. Learned Counsel for the petitioners submitted that the petitioners-A1 to A4 purchased the land in question and they spent their hard earned money for purchasing the lands from the de facto complainant-A. Srinivas and that the allegations made in the complaint are civil in nature and they do not attract the ingredients of any of the offences alleged in the present crime. It is further submitted that the petitioner in the above CrI.P.No.10615 of 2015 is doing his profession by defending his clients by filing suits and obtaining interlocutory orders in the suit filed by him on behalf of A1 to A4 in the present crime and he filed W.P.No.30116 of 2015 before this Court to declare the action of Madhapur police in calling him to the police station and this Court by order dated 23.9.2015 disposed of the writ petition on the basis of the instructions obtained by the Government Pleader for Home Department and despite there being specific stand taken by Madhapur police in the above writ petition, the investigating authorities are trying to implicate him. It is further submitted that A1 to A4 gave General Power of Attorney in favour of the petitioner in CrI.P.No.10635 of 2015 for looking after the cases on their behalf and the said petitioner in CrI.P.No.10635 of 2015 has no connection with the so called purchase made by the executants of Power of Attorney.

5. The de facto complainant filed a counter stating as follows:

(I) Bogus documents were brought into existence by the petitioners by impersonating him in order to deprive the real owners of their valuable property.

According to him, the following documents were brought into existence by the petitioners:

i) Agreement of sale-cum-GPA bearing Doc.No.14319/2007, dated 14.12.2007. Extent of 800 sq. yards in Sy.No.70(part) in favour of Kolla Subba Rao S/o K. Ramaiah, aged about 40 years, Occ: Business, Plot No.11, H.No.8-3-315/8/1/, Maruthi Nagar, Yousufguda, Hyderabad, A.P.;

The Rectification Deed related to the above document is Doc.No.10268/11, dated 30.11.2011;

(ii) Agreement of sale-cum-GPA bearing Doc.No.13417/2007, dated 8.11.2007, Extent 800 sq. yards in Sy.No.70(part) in favour of A. Maheshwar S/o A. Ramaswamy aged about 39 years, Occ: Business, Resident of H.No.6-3-663/3, Jafar Ali Bagh, Somajiguda, Hyderabad A.P.

The Rectification Deed related to the above document is Doc.No.10264/2011, dated 30.11.2011;

(iii) Agreement of sale-cum-GPA bearing Doc.No.14320/2007, dated 14.11.2007, Extent 800 sq. yards in Sy.No.70(part) in favour of S. Vijay Kumar Reddy S/o S. Veera Reddy aged about 40 years, Occ: Business, Resident of H.No.1-4-27/17/133, Padmashali Colony, Kavadi guda, Hyderabad, A.P.;

The Rectification Deed related to the above document is Doc.No.10265/2011, dated 30.11.2011;

(iv) Agreement of sale-cum-GPA bearing Doc.No.14321/2007, dated 14.11.2007, Extent 800 sq. yards in Sy.No.70(Part) in favour of S. Vijay Kumar Reddy, S/o S. Veera Reddy, aged about 40 years, Occ: Business, Resident of H.No.1-4-27/17/133, Padmashali Colony, Kavadi guda Hyderabad, A.P.

The rectification deed related to the above document is Doc.No.10266/2011 dated 30.11.2011;

(v) Agreement of sale-cum-GPA bearing Doc.No.14104/2007, dated 7.12.2007, Extent 800 sq. yards in Sy.No.70(part) in favour of L. Anil Reddy S/o L. Narendra Reddy, aged about 40 years, Occ: Business, H.No.50, LIC colony, Lower Tank Bund, Hyderabad, A.P.

The Rectification Deed related to the document is Doc.No.10267/2011

dated 30.11.2011.

(II) It is stated that the agreements-cum-GPA were initially registered with different boundaries and 4 years later, the boundaries were changed through the rectification deeds registered in the year 2011. In all the above deeds, there is reference to the two acres of land in Sy.No.70 of Madhapur village purchased by him in the year 1988 vide Doc.No.2326/1988, dated 30.3.1988. The close examination of the photograph of alleged Aila Srinivas on the above said documents reveal that he is a different person. As a proof of the identity of the vendor, they have attached PAN Card bearing No.AORPM7831D. However, no proof of address is enclosed. The signature on the documents of the vendor/first party is also different from the signature of the de facto complainant. The vendors/first party and vendees/second parties in all the above 5 documents are part of a gang involved in creation of false identities, fabrication of documents and indulged in land grabbing. They created sham transactions under all the above 5 agreements of sale-cum-GPAs and Rectification Deeds in order to create disputes over valuable properties and to grab the land/to black mail the real owners and to extort money. In case of weak parties, they grab the land and drive away the real owners by threatening with physical elimination.

6. While hearing the matter, it is submitted by the learned Public Prosecutor that according to his instructions, during the course of investigation in the F.I.R in question, the person, who is a witness to the rectification deeds, dated 30.11.2011, filed a complaint before the Magistrate alleging that the advocate, appearing on behalf of the de facto complainant threatened the said witness and took away the original documents pertaining to the transactions concerned.

7. Learned Public Prosecutor further submitted that the documents as mentioned in the complaint were not signed by the de facto complainant and the petitioners impersonated the de facto complainant and brought into existence the documents of the year 2007 and 2011 and in these malafide transactions, a gang of the persons is involved and in case the anticipatory bail is granted, the petitioners would tamper with the material evidence. It is further submitted that according to his instructions,

the petitioners are very highly influential people and therefore, there is possibility of tampering with the evidence. It is further submitted that the petitioners are not law abiding citizens and they intend to challenge the investigating agency and deviate the investigation and if the anticipatory bail is granted to the petitioners, there is every possibility of tampering with the witnesses. Therefore, the petitions are liable to be dismissed.

8. It is relevant to note the offences alleged against the petitioners. The F.I.R in Cr.No:543 of 2015 of Madhapur Police Station (Guttala), Cyberabad, Ranga Reddy District was registered against the petitioners for the offences punishable under Sections 419, 420, 468 and 471 I.P.C. The allegations in question are with regard to execution of the sale deeds by way of impersonating the de facto complainant, and when the purchasers who purchased the land in question from the de facto complainant in the year 1995, approached the de facto complainant and enquired as to the transactions of the year 2007 and 2011 in favour of the petitioners, the de facto complainant filed the present crime against the petitioners.

9. Considering the nature and gravity of the accusation and the submissions made by the learned Public Prosecutor as to the difficulties of the Investigating Agency, this Court is of the view that the grant of anticipatory bail to the petitioners would cause prejudice to the Investigating Agency, and the investigating agency cannot gather the documentary evidence from the possession of the petitioners. In these circumstances, this Court is not inclined to grant anticipatory bail to the petitioners.

10. Accordingly, all the Criminal Petitions are dismissed.

JUSTICE RAJA ELANGO

Dated: 17.11.2015

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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