

HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.27914 of 2009

ORDER:

In the present writ petition, filed under Article 226 of the Constitution of India, petitioner prays this Court to quash crime in FIR.371/2009, on the file of the Police Station, Siricillam Karimnagar District registered on the alleged offence punishable under Sections 420 and 468 of I.P.C.

2. According to the petitioners, they purchased the lands admeasuring Ac.0-11 gts and Ac.1-25 gts, situated in Sy.Nos.535/2 and 535/1, by way of registered sale deeds dated 27.02.2008 and 17.05.2008, and they are in possession of the same. The third respondent herein filed a complaint on 25.11.2009 against the petitioners herein, on the file of the Court of the Judicial First Class Magistrate, Siricilla for the offence under Section 420 I.P.C alleging therein that he purchased the lands of Ac.1-03¼ in Sy.NO.535/1 and Ac.0-22¼ in Sy.No.535/2 from one Mr.Kola Mallaiah, son of Narsaiah and Kola Narayana son of Narsaiah respectively, for an amount of Rs.4,000/-, by way of agreement of sale on 02.01.1992 and since then he is in possession of the same. It is further stated that the complainant filed the said agreement before the Tahsildar, Siricilla and the Tahsildar, Siricilla collected the stamp duty and transfer duty through file No.B/203/09 dated 05.10.2009 and that the accused purchased the same lands which the complainant purchased in the year 1992 and he came to know of the same on 15.11.2009 when the accused filed the sale deeds before the Tahsildar. It is eventually alleged in the complaint that with a fraudulent and dishonest intention, the accused fabricated and created pass books and got registered the above said lands to grab the same.

3. The Judicial First Class Magistrate, Siricilla, referred the complaint to the police under Section 156 (3) of the Code of Criminal Procedure and S.H.O, Police Station, Siricilla registered the same as

FIR.371/2009 for the alleged offence under Section 420 and 468 I.P.C. Seeking to quash the said First Information Report, the present writ petition came to be filed on 22.12.2009.

4. This Court, while issuing *Rule Nisi*, granted stay of investigation on 22.12.2009. Responding to the *Rule Nisi* issued by this Court, a counter affidavit has been filed by the 2nd respondent/Sub-Inspector of Police, Siricilla Police Station, Karimnagar, denying the averments made in the writ affidavit and in the direction of justifying the registration of FIR.

5. Heard Sri K.Ashok Reddy, learned counsel for the petitioners and the learned Government Pleader for Home for respondents 1 and 2 and none appears for the respondent No.3.

6. It is contended by the learned counsel for the petitioners that the complaint lodged by the respondent No.3 which culminated in registration of FIR.371/2009 is a patent abuse of process of law. It is contended that the complaint is tainted with the *mala fides* and the disputes of civil nature are sought to be given criminal flavour only for the purpose of harassing the petitioner and for driving the petitioners towards negotiating table which is impermissible and contrary to the settled propositions of law. It is also contended that the present prosecution is a counter blast to the Crime No.60/2009 registered on the complaint of the first petitioner on 15.10.2009 against the son of the third respondent for the offence under Section 420, 468 and 471 of I.P.C. It is further argued that the petitioners purchased the property for valuable consideration by way of registered sale deeds. It is also submitted that the very basis for the accusation made by the 3rd respondent is the orders of regularization passed by the Tahsildar, Siricilla which were declared invalid by the Revenue Divisional, Siricilla vide orders in Appeal No.D/2238/2009 dated 29.11.2012, as such, further continuation of the prosecution would be a patent abuse of process of law.

7. Per contra, it is vehemently and emphatically contended by the

learned Government Pleader for Home, appearing for the respondents 1 and 2 that registration of the First Information Report is in accordance with law and there is no illegality nor any infirmity in the action of the officials which warrants interference or indulgence of this Court under Article 226 of the Constitution of India. The learned Government Pleader further argues that the contentions which have been raised by the learned counsel for the petitioners are required to be enquired into during the course of enquiry and trial before a competent criminal court and at the threshold the same cannot be gone into.

8. In the above background, now the issues that emerge for consideration of this Court are:

1. Whether the petitioners are entitled for any relief from this court under Article 226 of the Constitution of India? and
2. Whether the petitioners have made out a case, warranting interference of this Court under Article 226 of the Constitution of India?

9. The legislative intent behind enacting the criminal laws is to maintain law and order, peace and tranquility in the society. Therefore, the prosecution shall be in the direction of achieving the said goal and in the direction of inspiring confidence and faith of the peoples in the system and the process of law should never be permitted for wrecking vengeance against the persons for individual benefits in the said disguise. It is a settled law that inherent and extraordinary power of this Court under Section 482 of the Code of Criminal procedure and Article 226 of the Constitution of India is required to be pressed into service very sparingly with great care and circumspection and within the principles and parameters laid down in authoritative pronouncements in the event of there being any abuse of process of law. At the same time, there is a sacred obligation and duty on the Courts to arrest the same to strengthen the confidence of the people on the system guided by rule of law. Any effort to settle the civil disputes and claims, which do not involve any criminal offence, by applying the pressure through criminal

prosecution should be deprecated. There is also an impression in the society that if a person would somehow be entangled in a criminal prosecution, there is every-likelihood of immediate settlement. The issue in the present writ petition is required to be dealt with in the light of the above aspects.

10. A perusal of the complaint filed by the respondent No.3 which eventually culminated in registration of FIR.371/2009, on the file of the Police Station, Siricilla for the offence lodged under Section 420 and 468 I.P.C, in clear and vivid terms demonstrates that the very foundation for lodging the complaint is the order of the Tahsildar in File No.B/190/2009 and B/203/2009 dated 05.10.2009 pertaining to the lands in Sy.Nos.535/1 and 535/2 of Sarampalli Village, Siricilla Mandal, Karimnagar District. By virtue of the said order, the Tahsildar, Siricilla regularised the simple sale deeds and issued Form 13-B certificates in favour of the third respondent herein.

11. It is submitted by the learned counsel for the petitioners that the said orders were carried in appeal before the Revenue Divisional Officer, Siricilla under Section 5 (B) of A.P. Rights In Land and Pattadar Pass Books Act, 1971 and the Revenue Divisional Officer by way of an order dated 29.11.2012 did set aside the certificates issued in favour of the third respondent vide orders of the Tahsildar dated 05.10.2009. A copy of the said order passed by the Revenue Divisional Officer, Siricilla in Appeal No.D/2238/2009 dated 29.11.2012 is placed on record by the learned counsel for the petitioners. It is submitted by the learned counsel for the petitioners that the validity of the same has not been challenged by the third respondent by way of a revision and the same has become final.

12. A bare reading of the order of the Revenue Divisional Officer, Siricilla dated 29.11.2012 makes it abundantly clear that the Revenue Divisional Officer by virtue of the said orders did set aside the orders of the Tahsildar and declared the 13-B certificates issued earlier in favour of the third respondent as invalid. Therefore, in the considered and

13. For the aforesaid reasons, writ petition is allowed and the FIR No.371/2009, on the file of the Police Station, Siricilla Police Station, Karimnagar District is hereby quashed. Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date:10.03.2015
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Between:

Ch.Venkata Gopal Rao S/o Late Sri Srinivasa Rao,
Aged 58 years, Occ: Agriculture, R/o. H.No.1-1,
Sarampally Village, Sirisilla Revenue Mandal,
Karimnagar district and two others.

... Petitioners

and

The State of Andhra Pradesh
Represented by the Superintendent of Police,
Karimnagar District and two others.

... Respondents

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