

CRIMINAL PETITION No.11821 OF 2013 ORDER: This Criminal Petition has been filed for quashing Crime No.91 of 2012 on the file of Buchireddypalem Police Station, Nellore District. The petitioners herein were A1 to A5 therein, while respondent No.2 herein was the de facto complainant. A1 and A2/petitioners 1 and 2 herein are none other than the brothers of the father of the de facto complainant. Petitioner No.2 herein is nearly 80 years old man, but unfortunately the de facto complainant has not described the relationship which she had with her own paternal uncle. Learned counsel for the petitioners has pointed out that the de facto complainant has filed a civil suit in O.S.No.164 of 2006 on the file of Junior Civil Judge, Kovur, Nellore District. Petitioners 1 and 2 and Sri Shaik Malang Shah Sahab were impleaded as defendants 1 to 3 respectively to the said suit. In the written statement filed by the defendants in that suit at the very outset, in paragraph No.3 thereof, it has been categorically admitted by them that though the rough sketch filed by the plaintiff is not correctly drawn, but however it is true that originally plot No.1 belongs to Sri Shaik Kale Shah Sahab, the father of the plaintiff. It was further set out that Sri Kale Shah Sahab, S/o.Sri Shaik Khadar Sahab is owning an extent of Ac.0.43 cents of land, but not as set out in the plaint schedule. It was further asserted that Sri Kale Shah Sahab settled plot No.1, the plaint schedule property, in favour of the plaintiff under a registered deed, dated 31.03.2003. The fencing which has been put around another plot is categorically asserted to be belonging to defendant No.2 in the suit, who is petitioner No.1 herein. The defendants have also pointed out the oral partition between the brothers which had taken place more than 30 years back and the share of each one of them is only Ac.0.37 cents. It is stated that defendant No.1 in the suit has sold away his share to defendant No.2 and consequently the fencing put around the land of defendant No.1 is also transferred to defendant No.2. After written statement is filed, the suit is dismissed for default as respondent No.2 – de facto complainant has neither perused, nor left instructions with her counsel. When once respondent No.2 – de facto complainant herself has raised the dispute in a civil suit, it is neither fair nor proper on her part to have now turn around and convert the civil dispute into a criminal dispute and make allegations against the elder brothers of her own father. Learned counsel for respondent No.2 – de facto complainant, when the matter appeared on 09.06.2015, has taken time for securing instructions in this regard. But, however, today he did not appear when the matter is taken up for hearing. There was no representation on behalf of respondent No.2 – de facto complainant, when her name is called out. Since I have gone through the complaint as well as the written statement filed on behalf of the defendants in O.S.No.164 of 2006 and in view of the contents thereof, I am of the opinion that the dispute, if any that is existing between the petitioners herein on the one hand and respondent No.2 – de facto complainant herein on the other, is purely a civil dispute. Hence, the Criminal Petition is allowed and the proceedings against the petitioners/A1 to A5 in Crime No.91 of 2012 on the file of Buchireddypalem Police Station, Nellore District, are quashed. Consequently, the miscellaneous petitions, if any, shall also stand disposed of.

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