

HONOURABLE SRI JUSTICE M.S.K.JAISWAL

CRL.P.No.9318 of 2010

ORDER:

The Criminal Petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.652 of 2009 on the file of the Additional Judicial Magistrate of First Class, Bhongir, Nalgonda District.

Heard the learned Counsel appearing for the petitioner and the learned Public Prosecutor, representing the State and also the learned Counsel appearing for the 2nd respondent-complainant.

The petitioner herein is Accused No.6. The 2nd respondent is the *de facto* complainant. The 2nd respondent/*de facto* complainant filed a private complaint on the file of the Additional Judicial Magistrate of First Class, Bhongir and the same was referred to the jurisdictional police under Section 156(3) Cr.P.C for investigation and report. Pursuant there to, a case in Crime No.90 of 2009 was registered against the petitioner herein and 5 others for the offences punishable under sections 419, 420, 467, 471 and 120(B) I.P.C, and after completion of investigation, the police filed charge sheet and the same was numbered as C.C.No.652 of 2009.

Learned Counsel for the petitioner submitted that the petitioner has nothing to do with the alleged offences and he has been falsely implicated in this case; that the complaint

filed by the 2nd respondent herein clearly reveals that the case is of a civil nature and, therefore, the criminal proceedings do not stand against the petitioner herein and in support of the said contention, he relied upon a decision of the Apex Court in *Chandran Ratnaswami Vs. K.C.Palanisamy*^[1]. He further submitted that the allegations made in the complaint, even if accepted at their face value, do not disclose commission of any offence by the petitioner and, therefore, the proceedings initiated against him are liable to be quashed. To substantiate the said contention, he relied upon a decision of the Supreme Court in *Ajay Mitra vs. State of M.P.*^[2]

Admittedly, the husband of the 2nd respondent-*de facto* complainant by name Chukka Krishna died on 06.08.2001 leaving behind his wife i.e., the 2nd respondent herein, one daughter and one son. He had three brothers' viz., Chukka Anjaneyulu (Accused No.2), Chukka Chandraiah (Accused No.3) and Chukka Shankar. Accused No.1 is their father. It is alleged in the charge sheet that there was joint property of an extent of Ac.5.15 guntas in Sy.Nos.439/e and 440/e situated at Bibinagar in the name of deceased husband of the 2nd respondent/*de facto* complainant, her father-in-law and her three younger brothers-in-law. It is alleged that Accused No.3 by impersonating the husband of the 2nd respondent herein along with A-1 and A-2 in collusion with A-4 and A-5 sold the property in question to the petitioner herein by way of a registered sale deed dated 11.09.2006 so

as to defeat the legitimate rights of the 2nd respondent/*de facto* complainant. A perusal of the charge sheet and the sale deed clearly disclose that the petitioner has purchased the property in question from A-1, one Chukka Krishna (husband of the 2nd respondent) and A-2 even though he was aware of the death of the 2nd executants i.e., the husband of the 2nd respondent-complainant. A-4 and A-5 are said to be the witnesses at the time of registration of the said document. A perusal of the allegations in the charge sheet clearly reveal a *prima facie* case against the petitioner herein and other accused for the offences alleged against them. All the aforesaid contentions fall within the purview of disputed questions of fact and, therefore, the truth or otherwise of the allegations cannot be gone into in this petition and it can only be decided during the course of trial. I, therefore, see no reason to interfere with the matter at this stage by quashing the proceedings against the petitioner.

Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

06-07-2015

Gsn

[\[1\]](#) (2013) 6 Supreme Court Cases 740

[\[2\]](#) (2003) 3 Supreme Court Cases 11