

THE HON'BLE MRS JUSTICE ANIS

CRIMINAL PETITION NO.2753 OF 2015

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C., to quash the proceedings against the petitioners/Accused in Crime No.432 of 2014 of Sarpavaram Police Station, East Godavari District, for the offences punishable under Sections 447 and 468 read with Section 34 of the Indian Penal Code (IPC).

Heard the learned counsel for the petitioners and the learned Public Prosecutor for the State.

The facts of the case are that the second respondent-Tahsildar, Kakinada Urban, East Godavari District, filed a complaint before the Station House Officer, Sarpavaram Police Station, alleging that the land in R.S.No.144/3 of Ramanayyapeta of Kakinada Urban Mandal belongs to Bhoodan Yajna Board and under the control of Revenue Department and the said land is being levelled unauthorisedly and thereupon, on 22.12.2014 the revenue officials visited the site and stopped the levelling work. It was further averred in the complaint that the petitioners executed a registered sale deed bearing No.14026 dated 22.12.2014 showing Survey No.144/3 located at Suryaraopeta Village and tried to take possession of land in Survey No.144/3 of Ramanayyapeta Village by misleading the authorities and the complainant further requested the police to register a case against the petitioners as well as witnesses to the said document. The petitioners filed W.P.No.40578 of 2014 seeking not to dispossess the vendees from the possession of the subject property and further sought relief to direct to the Sub-Registrar, Samalkot, to receive and accept the Rectification Deed. This Court passed an interim order to maintain *status quo* subject to the condition that the petitioners should not undertake any developmental activity or commercial activity in the subject land and the Writ Petition is pending adjudication.

Learned counsel for the petitioners submitted that there is a mistake in mentioning the description of the property and it has been mentioned in the sale deed as Suryaraopeta, whereas the property is situated in Ramanayyapeta. Except that the remaining things i.e., the extent and survey number have been correctly mentioned. The petitioners and the vendees tried to execute Rectification deed, for which the Sub-Registrar, Samalkot refused to entertain the same. It is further submitted that there is no basis for the claim that the subject land belongs to Bhoodan Yajna Board and the dispute is civil in nature and prayed to quash the proceedings in Crime No.432 of 2014.

Learned Public Prosecutor argued that there is no dispute regarding the identity of the property. Therefore, the second respondent has rightly lodged complaint against the petitioners. Further, the Investigating Officer has to investigate the case after recording the statements of the witnesses and hence, at this stage, the question of quashing Crime No.432 of 2014 of Sarpavaram Police Station does not arise and prayed to dismiss the petition.

Now, the point for consideration is whether the petitioners are entitled to quashing of the proceedings in Crime No.432 of 2014 of Sarpavaram Police Station, East Godavari District.

POINT:

A perusal of the record shows that the second respondent lodged a complaint to the police, Sarpavaram Police Station, East Godavari District on 24.12.2014 for the offences punishable under Sections 447 and 468 read with Section 34 IPC and the same was registered as crime No.432 of 2014. The main contention of the petitioners is that the property, which is in dispute, belongs to their ancestors and the names of their ancestors were recorded in the revenue records and

further, pattadar passbooks were also issued in their favour. It is contended that the second respondent, without any right, filed a false complaint. Learned counsel for the petitioners also contended that this Court granted interim order of *status quo* in W.P.No.40578 of 2014.

Having regard to the facts and circumstances of the case and also the principles enunciated by the Hon'ble Supreme Court in **R.P. Kapoor v State of Punjab**^[1] and **State of Haryana v. Bhajanlal**^[2], I am of the view that it is not a fit case to quash the proceedings at the threshold.

So far as the dispute relates to the land situated in R.S.No.144/3 of Ramanayyapeta of Kakinada Urban Mandal, whether it belongs to Bhoodan Yatna Board or it belongs to the petitioners has to be gone into by the Investigating Officer after recording the statements of the witnesses and also collecting the records. At this stage, the petitioners are not entitled to quashing of the proceedings in Crime No.432 of 2014.

Learned counsel for the petitioner submitted that the Station House Officer, Sarpavaram Police Station, East Godavari District, may be directed not to arrest the petitioners/Accused till completion of investigation.

In view of the facts and circumstances of the case, the Station House Officer, Sarpavaram Police Station, East Godavari District, is hereby directed not to arrest the petitioners/Accused in Crime No.432 of 2014 till completion of investigation or filing of report.

With the above directions, the Criminal Petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

(ANIS, J)

28th April 2015
RRB

[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604