

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P. No.3234 of 2013

ORDER:

The petitioners are accused Nos.5 & 6 among six accused in Crime No.76 of 2012 of Sullurpet Police Station, SPSR Nellore District, which is outcome of the report addressed to the learned Magistrate by the defacto complainant as General Secretary of Human Rights Forum, Nellore stating that he is one of the persons having faith in christianisam and for the property which belongs to the South Andhra Luthern Church (SALC), accused Nos.3 and 4 viz., Kurapati Jesudass and his son—Kurapati Stanley obtained under gift deed dated 01.05.2010 from accused Nos.1 and 2—Yagani Adam Moses and Mattam Devi Prasad and they in turn sold said property to accused Nos.5 and 6, who are petitioners herein i.e., Pallaki Aparajitha, W/o.Injamuri Gopi Krishna and Injamuri Gopi Krishna, S/o.Chakra Pani under registered sale deed for a consideration of Rs.17,28,000/-. The learned Magistrate forwarded the same to police under Section 156 (3) Cr.P.C, the police registered above crime for the offences under Sections 406, 420, 423, 120-B read with 34 IPC. It is impugning the crime registered against the petitioners/ accused Nos.5 and 6, who are claiming as bonafide purchasers for consideration from the vendee, who were the donees under the registered gift deed, sought for quashing.

2) It is the contention of the learned counsel for the petitioners that none of the ingredients of penal offences much less cheating or breach of trust that attracts, more particularly, against the petitioners, who are bonafide purchasers and there is no any entrustment and there is no any element of deception or cheating on

their part and thereby, the continuation of the proceedings is nothing but abuse of process and hence to be quashed.

3) Whereas it is the contention of the learned public prosecutor representing the 1st respondent—State that the matter is under investigation by police and it is involving the disputed facts, which have to be decided by the trial Court and it is premature to quash the FIR and thereby sought for dismissal.

4) The 2nd respondent even served failed to attend and hence taken as heard. Perused the material on record.

5) As per the latest expression of the Apex Court in ***Uma Shanker Gopalika vs State of Bihar***^[1], there is nothing to say any deception on the part of the petitioners/ accused Nos.5 & 6 much less in collusion with other accused Nos.1 to 4. It is even from the very complaint shows they purchased the property from accused Nos.3 and 4 for a valuable consideration of Rs.17,28,000/- and applied for the panchayat permission and are constructing building for running a private hospital. There is no entrustment to the petitioners by anybody much less by the defacto complainant to say any breach of trust even. They are the bonafide purchasers for consideration. To say that it is a church property, there is no basis even to say from the complaint. Even otherwise, if at all there is any offence of cheating it might have been committed by accused Nos.1 and 2, with deception in relating to the alleged church properties by its transfer in favour of accused Nos.3 and 4 by way of gift deed. Thus, there is nothing to attribute against the accused Nos.5 and 6.

6) Having regard to the above, the Criminal Petition is allowed and the proceedings relating to Crime No.76 of 2012 of Sullurpet Police Station, Nellore District so far as petitioners/

accused Nos.5 and 6 concerned, are quashed. The bail bonds of the petitioners/ accused Nos.5 & 6, if any, shall stand cancelled.

7) As a sequel, miscellaneous petitions if any pending in this Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.20.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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CRIMINAL PETITION No.3234 OF 2013

Date:20.01.2016

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