

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO
CRIMINAL PETITION No.1690 of 2013

ORDER :

In this petition filed under Section 482 Cr.P.C., the petitioners/ A1 to A5 seek to quash the proceedings in C.C.No.303 of 2009 on the file of Judicial First Class Magistrate, Jangaon, Warangal District.

2) The above said complaint was filed by the complainant alleging that herself and LW2—Samboju Pushpamala are owners and possessors of land to an extent of Ac.0.05 gts. in Sy.No.136/3 which is an Inam land which they inherited from their father-in-law by name —Samboju Suryanarayana. While so, A1 and A2 have casted an evil eye on the said land and created a forged agreement to sell dated 13.08.2004 and some receipts as if the complainant and LW2 executed those documents but they never signed on those documents. A1 and A2 have created those documents with the support of A3 to A and thereupon A1 has filed O.S.No.61 of 2007 on the file of Senior Civil Judge, Jangaon for specific performance of the forged agreement of sale. Hence, the complaint. The trial Court has taken cognizance of the case for the offences under Sections 468 and 420 IPC.

Hence the instant petition.

3) Though notice served on the second respondent/complainant there is no representation on her

behalf. Heard learned counsel for petitioners and learned Public Prosecutor (Telangana).

4) Challenging the proceedings in criminal case learned counsel for petitioners submitted that suit agreement dated 13.08.2004 was a genuine document executed by complainant and one Samboju Pushpamala agreed to sell Ac.0.05 gts. of land i.e. 605 sq. yards of land in Sy.No.136/3 for a sum of Rs.1,10,000/- and they received an advance of Rs.90,000/- but failed to execute the registered sale deed and therefore petitioner No.1/A1 in whose favour agreement was executed, filed O.S.No.61 of 2007 on the file of Senior Civil Judge, Jangaon for specific performance of suit agreement to sell and the said suit was contested by the complainant and Samboju Pushpamala by taking the plea that suit agreement was forged document but after full dressed trial a decree was passed by the trial Court on 23.12.2010 in favour of plaintiff. Aggrieved, the defendants therein preferred appeal—A.S.No.11 of 2011 before IV Additional District Judge (FTC), Warangal and after full hearing of the matter the said Court dismissed the appeal in its judgment dated 23.02.2012.

5) Learned counsel submitted in view of the fact that the civil courts have upheld the genuinity of agreement to sell, prosecution of the present criminal case on the same contention that the agreement is a forged document is unsustainable and therefore the proceedings may be

quashed.

6) Per contra, learned Public Prosecutor argued that merely because the civil suit was decreed in favour of plaintiff/A1 that cannot be a ground to quash the proceedings in criminal case.

7) A perusal of copies of the judgments in O.S.No.61 of 2007 and A.S.No.11 of 2011 filed by the petitioners would show that second respondent/complaint took the forgery plea before the civil court and upon full fledged trial the trial Court decreed the suit negating the contention raised by the defendants therein. The appellate Court also rejected the forgery contention set up by the appellants/defendants. In view of the fact that after hot contest the forgery contention was negated by the Courts below, continuation of criminal proceedings on the self-same contention amounts to abuse of process of law, in my view.

8) Accordingly, this Criminal Petition is allowed and proceedings in C.C.No.303 of 2009 on the file of Judicial First Class Magistrate, Jangaon are quashed against the petitioners/accused.

As a sequel, pending miscellaneous applications if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 06.04.2016

Murthy