

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.718 of 2013

JUDGMENT:

1. This revision is filed by the petitioner-accused challenging the order dated 4.2.2013 passed in CrI.M.P.No.817 of 2011 in Crime No.31 of 2011 by the Judicial Magistrate of First Class, Allagadda, Kurnool District.

2. The 1st respondent-complainant filed a private complaint against the petitioner for the offence under Section 420 IPC. In the complaint, it is stated that the petitioner, the complainant and other members established Sree Raghavendra Educational Society in the year 1981. Late B. Ramakrishna Reddy acted as President-cum-Correspondent of the society. They purchased Ac.11.07 cents of land for the purpose of college building, play ground and construction of new building for new courses. While so, B. Ramakrishna Reddy with bad intention, he conducted extra ordinary General Body meeting on 24.8.2007 with regard to the sale of the land. On good faith, the members signed in the resolution including the complainant. On 9.10.2007, the then B. Ramakrishna Reddy executed a registered sale deed in favour of his wife- petitioner-accused without giving any information to the members. As per the bye-laws, any income or expenditure derived will be approved by the General body and adopted so. The amount was not credited to the society account. No meeting was conducted with regard to the accounts and records. The petitioner-accused overlooked the Society Act. In spite of requests of the complainant, the petitioner did not reconvey the land to the society.

3. After recording the sworn statement of the complainant and three witnesses, the learned Magistrate took cognizance of the offence under Section 420 IPC against the petitioner. The petitioner-accused filed the above Crl.M.P. under Section 245 of Cr.P.C. seeking to discharge her. The learned Magistrate dismissed the said application. Hence, the petitioner filed this revision.

4. It is the contention of the petitioner-accused that the complainant has no locus standi to file the complaint against the petitioner and the complainant is not the member of Sree Raghavendra Educational Society as on the date of filing of the private complaint and he was removed by the Executive Committee in its meeting dated 27.12.2010. As per the Bye-laws of Sree Raghavendra Educational Society, the person to sue or to be sued is only governing council i.e., Executive Body, but not the member of the society. Hence, the complaint is not maintainable. Further, there is no material evidence to show that the deceased Ramakrishna Reddy, the then President-cum-Correspondent of Sree Raghavendra Educational Society, Allagadda and the petitioner colluded and cheated the society and its members particularly the complainant. In an extra-ordinary General Body meeting of Sree Raghavendra Educational Society held on 24.8.2007, a unanimous resolution was passed to sell the land in which the complainant agreed and signed by accepting the resolution and there is no prima facie case against the petitioner and that the petitioner is a bonafide purchaser of the schedule property for valuable consideration under registered sale deed dated 9.10.2007 and she took possession of the same on the same day and her name was also mutated in the revenue records. There is no criminal intention on the part of the petitioner to obtain any fraudulent document and there was no conspiracy with the deceased, whereas it is the case of

the complainant that he is a life member of the society and he has a right to file the complaint in the interest of the society. Further, it is the case of the complainant that the society property was sold in favour of the petitioner by her husband, who acted as President of the Society. No amount was credited to the society in respect of the said transaction.

5. The material particulars as to locus standi of the complainant, as to the sale transaction, as to the minutes of the extra-ordinary General Body Meeting body meeting dated 24.8.2007 and as to the rendition of accounts in respect of the sale transaction, are the question of facts required to be adjudicated after a fullfledged trial but not at this stage of the proceedings. Therefore, this Court is not inclined to interfere with the order under revision. However, the presence of the petitioner before the Court below is dispensed with except on the dates when the Court below insisted for her presence. The petitioner is directed to be represented by a Counsel before the Court below.

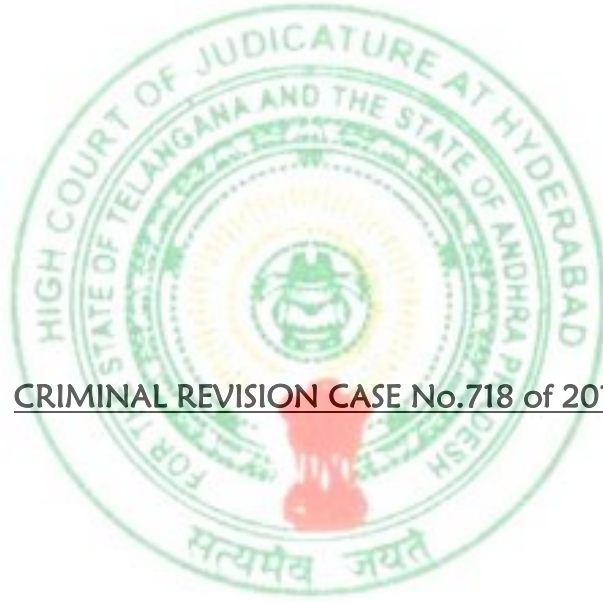
6. Accordingly, the Criminal Revision Case is disposed of. Consequently, miscellaneous petitions pending, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 21st July, 2016

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21.7.2016

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