

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5794 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.9, 16 and 17 in Crime No.61 of 2015 on the file of the Station House Officer, I Town Police Station, Tenali, Guntur District, registered for the offences under Sections 468, 471, 420 and 447 read with 34 IPC.

2. Learned counsel for the petitioners' strenuously submitted that the second respondent has no right whatsoever in the property in question. He further submitted that the second respondent herein created a will dated 20.09.2008 to deprive the legal rights of accused Nos.1, 3 and 4. He further submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioners. Per contra, learned Public Prosecutor for the State of Andhra Pradesh submitted that originally the property belongs to one Chandrasekhar Lingam, who is father of second respondent. He further submitted that Accused Nos.1, 3 and 4 have obtained a possession certificate in connivance with revenue officials and created a gift deed dated 23.04.2012. He further submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners are A9, A16 and A17 and the second respondent is the *de facto* complainant. A perusal of the record reveals that Accused Nos.1, 3 and 4 are children of Bharathi Devi, who died on 20.03.2009. The father of the second respondent died on 30.09.2008. It is alleged

that there was some relation between the father of the second respondent and Bharathi Devi. As per the allegations made in the complaint, accused Nos.1, 3 and 4 have created a gift deed dated 23.04.2012 basing on the possession certificate obtained by them. It is further alleged that accused No.9 purchased the property in connivance with accused Nos.1, 3 and 4. It is also alleged that petitioner Nos.2 and 3-accused Nos.16 and 17 acted as identifying witnesses to the sale deed. The gist of the allegations made in the complaint is that the petitioners herein along with other accused cheated the second respondent.

4. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. Whether the petitioners along with other accused have cheated the second respondent or not will come to light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab¹**, **State of Haryana v. Bhajan Lal²**, **V.Y.Jose v. State of Gujarat³** and **Teeja Devi v. State of Rajasthan⁴**, I am of the considered

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

view that it is not a fit case to quash the criminal proceedings at the threshold.

6. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in **Arnesh Kumar v. State of Bihar**⁵, the Station House Officer, I Town Police Station, Tenali, Guntur District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.61 of 2015 so far as the petitioners/accused Nos.9, 16 and 17 are concerned.

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

Date:18.07.2017
Rns

T.SUNIL CHOWDARY, J

⁵ 2014 (8) SCALE 250