

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2132 OF 2017

JUDGMENT:

The present Criminal Revision Case is preferred by *de facto* complainant - PW.1 questioning the judgment, dated 30.01.2017, passed in Criminal Appeal No.117 of 2016, by the Additional Sessions Judge, Hindupur, whereby and where-under, the learned Sessions Judge dismissed the appeal confirming the acquittal judgment, dated 12.08.2016, passed by the learned Special Magistrate, Hindupur in C.C. No.197 of 2015 for the offence punishable under Section 447 read with 34 of the Indian Penal Code, 1860 (for short 'IPC') against respondent Nos.1 to 3 - accused.

2. Heard Sri A. Hanumantha Reddy, learned counsel for the revision petitioner, and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

3. The learned Special Magistrate, Hindupur, having observed due formalities, analyzed the evidence of PWs.1 to 6 let in by the prosecution and the documents marked as Exs.P-1 to P7; he has referred to certain aspects and also the ruling in **Yenamandra Venkateswara Siddanti v. Guntamikkala Venkanna**¹, on his own as regards the ingredients of entry on the land in the possession of another in exercise of a *bona fide* claim of right, and arrived at the

¹. 1980 (1) APLJ (HC) 74

conclusion that the evidence of PWs.2 to 4, in fact, did not corroborate the evidence of PW.1 and not useful to prove the offence punishable under Section 447 IPC; he arrived at the opinion that there has been *bona fide* claim over the disputed land, and thereby acquitted the accused.

4. The learned Sessions Judge, by his judgment, once again re-appraised the evidence on record and even referred to the evidence of PW.1 in his cross-examination pointing out the admission made by him to the effect that Adangal issued by the Mandal Revenue Officer, Hindupur, dated 24.04.2014, pertains to 1423 Fasli, and it is mentioned therein that Survey No.71-1 is unsettled land, and thereby derived the probability that the said admission would clearly disprove the claim of PW.1; also observed that if really PW.1 is in possession of the land in survey No.71-1, his name might have been occurred in Adangal; even Ex.P6 letter contents were also referred to in the judgment and, thereafter, referring to the admissions of PW.2 and then referring to the very same ruling which was referred to by the learned Special Magistrate, did not agree with the *de facto* complainant, and thereby dismissed the appeal confirming the judgment of acquittal recorded by the learned Special Magistrate.

5. The learned counsel for the revision petitioner is fair enough to point out the agreement of sale, under which PW.1 alleged to have purchased the land, and tried to impress upon the Court that PW.1 has

been in possession right from the date of purchase of land under agreement of sale. When once property is acquired under an agreement of sale, it is clear that proprietary title still remains with the Vendor, and there cannot be any conveyance of title. In such an event, certainly, ingredients of Section 447 IPC would not attract, more particularly, when there is *bona fide* claim over the disputed land by the parties to the *lis*. The remedy available to the *de facto* complainant is elsewhere but not resorting to criminal action. There is no merit in the present Criminal Revision Case as the findings recorded by both the Courts below do not suffer from any patent illegality.

6. The present Criminal Revision Case is, accordingly dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the present revision, stand closed.

A. SHANKAR NARAYANA, J

November 27, 2017.

Mgr