

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.9118 of 2010

ORDER:

The petitioners are Accused Nos.1, 4 to 6 of C.C. No.177 of 2004 on the file of Judicial First Class Magistrate, Nuzvidu, where the learned Magistrate has taken cognizance for the offences punishable under Sections 415, 420, 423, 424, 468, 471 and 120 (b) read with Section 34 IPC, which is outcome of crime No.30 of 2003 dated 12.05.2003 of Veeravalli Police Station of Krishna District from the report of 2nd respondent—Kodeboyina Radha Mohana Krishna Rao.

2) A perusal of the record shows that all the accused and the defacto complainant are interrelated. As per the report registered as crime supra and from the police final report, the defacto complainant is paternal uncle of accused. Accused No.1 is the elder brother of Accused No.2. Accused Nos.3 to 6 are own brothers. The father of accused Nos.1 and 2 and father of accused No.3 and defacto complainant are the brothers. The father of the defacto complainant by name K.Venkataratnam @ Rattaiah was having properties in Veeravalli and he died intestate leaving three sons, who succeeded the properties including Ac.5.24 cents in R.S. No.55/2 and that were partitioned 34 years ago. In the partition, K.Govindarajulu—father of accused Nos.1 and 2 got Ac.1.80 cents, K.Subrahmanyeswar Rao—father of accused Nos.3 to 6 got Ac.1.74 cents and defacto complainant got Ac.1.70 cents in R.S. No.55/2 and they are enjoying separately with peaceful possession including with revenue pattadar pass books and title deeds. The father of accused Nos.1 and 2 died in the year 1975 and his extent

of Ac.1.80 cents in R.S. No.55/2 came to be inherited to his legal heirs i.e., accused Nos.1 and 2 and their mother—Annapurnamma. In the year 1982, accused Nos.1 and 2 and their mother sold away the same to one Vasana Murali Mohan vide registered document No.1963 of 1982.

3) The father of accused Nos.3 to 6—K.Subrahmanyeswara Rao died in the year 1986 and his extent of Ac.1.74 cents succeeded by accused Nos.3 to 6, they availed agricultural loan by pledging the land in Primary Agricultural Co-operative Society, Veeravalli and took amount in favour of accused No.3 twice and they have shown the northern boundary as the land of defacto complainant—K.Radha Mohan Krishna Rao.

4) Defacto complainant, is residing at Ramavarappadu, which is far away from the land in R.S. No.55/2 at Veeravalli Village. Taking advantage of his absence, the accused wanted to grab the same, forged and fabricated the documents. As per the said forged sale deeds, accused Nos.1 and 2 alleged to have got the land to an extent of Ac.3.44 cents in R.S. No.55/2 inherited from Venkata Ratnam @ Rattaiah and sold away the land in equal shares to accused Nos.3 to 6 i.e., Ac.0.86 cents of land to each of them vide registered sale deed bearing document Nos.233 to 236 of 1997 dated 15.03.1997 of Sub-Registrar, Kanumolu, Krishna District knowingly well that there is no land for them after the sale of their land in 1982 sold again in 1997, which is nothing but cheating, that is the allegation. To say any offence of cheating for the report in 2003 since 1997, there is no explanation for the delay in reporting and if at all without any proper right in sale of the

property, the aggrieved are the accused Nos.3 to 6—purchasers and there is no forgery much less for the purpose of cheating or using as genuine forged document to attract but for if at all, the offence of forgery is against accused Nos.1 and 2 only. Thereby against other accused, the criminal proceedings are liable to be quashed.

5) Since purchasers are otherwise victims in obtaining sale deeds for no lands, if at all the version of the complainant is believable and even so far as accused Nos.1 and 2 are concerned besides accused No.2 is not a party to the quash petition for the delay of more than six years after the said sale deeds in 1997 by registered documents with delivery of possession, there is no basis. Apart from it, there are several disputes including from O.S. No.49 of 2004 filed by self same defacto complainant against the accused persons for declaration of title of plaintiff is absolute owner of the property of Ac.1.70 cents in R.S. No.55/2 in the boundaries and the said suit was ended in dismissal for default on 10.02.2010, thereby and taking into consideration of all these facts and since the dispute is purely civil in nature, apart from no grounds to entertain the belated FIR and police final report of sale transaction of 1997, to file private complaint in 2003 or to refer the same to police in registering the crime and filing the final report.

6) Accordingly and in the result, the Criminal Petition is allowed and the proceedings in C.C. No.177 of 2004 on the file of Judicial Magistrate of First Class, Nuzvid against petitioners/ accused Nos.1, 4 to 6 are hereby quashed. The bail bonds of the petitioners/ accused Nos.1, 4 to 6, if any, shall stand cancelled.

7) Miscellaneous petitions, pending if any in this Criminal Petition shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:05.10.2017
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