

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CRIMINAL PETITION No.2247 OF 2017**

**ORDER:**

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the First Information Report in Crime No.27 of 2017 of Kankipadu Police Station, Krishna District, Andhra Pradesh.

2. The petitioners are arraigned as accused Nos.1 to 3 in the aforesaid crime. They alleged to have committed the offences punishable under Sections 420, 467 and 471 of Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri Rama Mohan Palanki, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel would submit that the present case is purely civil dispute as could be seen from the notice got issued by petitioner No.1 and the reply notice got issued by respondent No.2 - *de facto* complainant and filing a civil suit in O.S. No.1233 of 2015 on the file of III Additional Senior Civil Judge, Vijayawada on 14.12.2015 and, thus, a civil liability is converted into criminal action by the *de facto* complainant.

5. The learned Additional Public Prosecutor would resist the request contending that there is concrete material even through the complaint allegations as to forging the signatures of the *de facto* complainant and fabricating an agreement of sale purported to have been executed by *de facto* complainant dated 11.06.2015, and unless the investigation is completed, the stand of the petitioners cannot be gain weight at this stage.

6. A few facts are relevant to appreciate the respective contentions. The complaint averments are to the effect that the *de facto* complainant, who is working as Record Assistant in a Court at Vuyyuru, sold an extent of 205.7 square yards in R.S. No.182/3C, situated at Godavarru road, Kankipadu village to one Thamballa Venkata Ramana under a registered sale deed on 06.07.2015, and on the same day, while she was at the Registrar's office for registering the land, petitioner No.2, who is inimically disposed of towards her father, is standing opposite the Registrar's office along with his followers and shown them the *de facto* complainant, and with a view to harass her and her father, forged her signature and fabricated an agreement of sale as if it was entered into by the *de facto* complainant on 11.06.2015 in favour of Chennam Pavan Kumar, who is petitioner No.1 herein, and petitioner No.3 is the scribe of the said agreement of sale. That has been the gist of the complaint filed on 31.01.2017.

7. The submission of the learned counsel for the petitioners is that the agreement of sale is dated 11.06.2015, the notice was got issued by petitioner No.1 on 11.09.2015 and, though, reply notice was got issued by the *de facto* complainant on 21.09.2015, filing the complaint on 31.01.2017 itself would be sufficient to view false implication. It is also his submission that there is already a civil suit pending in O.S. No.1233 of 2015 on the file of the III Additional Senior Civil Judge at Vijayawada filed by petitioner No.1 against the *de facto* complainant and one Smt. Tamballa Venkata Ramana and, therefore, is is nothing but converting a civil dispute into criminal action and, therefore, sought to quash the FIR.

i) He has also placed reliance in **Hotline Teletubes and Components Limited v. State of Bihar<sup>1</sup>, Dr. Sharda Prasad Sinha v. State of Bihar<sup>2</sup>, Trilok Singh v. Satya Deo Tripathi<sup>3</sup>, M. Sivaram v. State of Andhra Pradesh<sup>4</sup>.**

8. It is true, the complaint was lodged on 31.01.2017, that too almost more than a year after the civil suit was filed, but that delay cannot be considered at this stage to view a false implication of the petitioners. Though, the petitioners stated that the *de facto* complainant entered into an agreement of sale with petitioner No.1 and that she failed to honour the terms of agreement of sale, the

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<sup>1</sup>. (2005) 10 SCC 261

<sup>2</sup>. AIR 1977 SC 1754

<sup>3</sup>. AIR 1979 SC 850

<sup>4</sup>. 2007 CrL.L.J. 1259

petitioners have not chosen to annex a copy of the agreement of sale. Thus, these are all the facts which are to be considered as disputed facts, into which this Court cannot embark upon while considering an application under Section 482 of the Code. Investigation is, therefore, must to unravel the truth.

9. The decisions relied on by the petitioners in **Dr. Sharda Prasad Sinha** (Supra 2) would not render any assistance for the reason that the allegations in the complaint or the charge sheet therein did not constitute any offence; in **Trilok Singh** (Supra 3), the fact-situation is altogether different where there was complete material as to entering into agreement and default being committed in payment of instalments and, therefore, it was held that the dispute was purely of civil nature; in **M. Sivaram** (Supra 4), the offences alleged are under Sections 418 and 420 and since there was no averment in the complaint that the accused had fraudulent intention of not to pay money at beginning of transaction, FIR was quashed; in **Hotline Teletubes and Components Limited** (Supra 1), the issue relates to a contract between the parties and there was any intention to cheat and in that view of the matter, FIR was quashed.

10. In the present case, the very document i.e., agreement of sale said to have executed by the *de facto* complainant is claimed to be a fabricated document by forging the signatures. In fact, she has sold away the property in favour of defendant No.2 in the aforesaid

suit. Therefore, the aforesaid decisions relied on by the learned counsel would not render any assistance.

The Criminal Petition is, therefore, dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petition stand closed.

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**A. SHANKAR NARAYANA, J**

**April 10, 2017.**  
Mgr

