

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 2490 of 2011

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings against the petitioners/accused A1 and A2 in Crime No.13 of 2011 of P.T.M. Police Station, Chittoor District.

2. The 2nd respondent-*de facto* complainant filed a private complaint before the Judicial Magistrate of First Class, Thamballapalle, Chittoor District under Section 200 Cr.P.C., stating that he is a resident of Challavandlapalle, H/o Boorlapalle Village of P.T.M. Mandal and that the land in Sy.No.276/2 of Boorlapalle Revenue Village was acquired by the Government for HNSS Scheme, and that petitioner No.1 (A1) has no right or title over the said land, but petitioner No.1 (A1) colluded with petitioner No.2 (A2) and received the compensation amount. It is further stated that one Somasekhar has filed W.P.No.17396 of 2008 before this Court and in the said writ petition, notices were ordered and interim direction was issued not to disburse the amount and the writ petition is still pending. It is alleged that petitioner No.2, with a fraudulent intention to cheat the 2nd respondent, made payment to petitioner No.1. The Magistrate forwarded the complaint to the police under Section 156(3) Cr.P.C., for

investigation. The police investigated the matter and registered a case against the petitioners in Crime No.13 of 2011 for the offences punishable under Sections 420 and 406 r/w 34 IPC.

3. As per the case of the prosecution, the land in Sy.No.276/2C2 of Boorlapalle Village was acquired by the Government through Section 4(1) notification published in A.P. Gazette dated 31.01.2008. The Land Acquisition Officer-2nd petitioner herein has issued notices to the land owners and objectors and conducted enquiry from 07.02.2008 to 15.02.2008 at Tahsildar's office, P.T.M. The Land Acquisition Officer has passed an award and prepared a cheque for Rs.3,32,800/- in favour of the 1st petitioner. After verifying the revenue records, pattadar passbooks, title deeds and the documents submitted by one Somasekhar and the 1st petitioner, the Land Acquisition Officer held that the 1st petitioner is the owner of the land in Sy.No.276/2C2 to an extent of Acs.2.56 cents out of Acs.3.56 cts. acquired by the Government. The said Somasekhar filed objections stating that he has got right over the land in Sy.No.276/2C2. The cheque was stopped and again notices were sent to the 1st petitioner and Y.Somasekhar by the Land Acquisition Officer, who was the Special Deputy Collector and Land Acquisition Officer under HNSS Unit-I asking them to

produce relevant documents, and on 28.04.2008 both the 1st petitioner and objector Y.Somasekhar attended before the Land Acquisition Officer, Madanapalle. An enquiry was conducted by the Land Acquisition Officer on 20.05.2008 and again on 30.06.2008, and the matter was adjourned to 17.06.2008. The Land Acquisition Officer after verifying all the records came to the conclusion that the documents submitted by Y.Somasekhar i.e., sale deed dated 08.09.1964 was not pertaining to the land in question and the Will dated 05.05.1961 was a fictitious document.

4. Learned counsel for the petitioners submitted that, suppressing the fact that compensation was already released in favour of petitioner No.1, the writ petition was filed and interim orders were obtained wherein the respondents were directed not to disburse the amount.

5. Learned counsel for the petitioners referred to para 4 of the counter filed by the Government in the said writ petition wherein the Government came to conclusion that the will dated 05.05.1961 submitted by the writ petitioner before the Land Acquisition Officer was an unregistered document which does not establish his title to the land. There was no suitable record in respect of the land in Sy.No.276/2C2 maintaining an extent of Acs.3.56 cents showing the ownership of the writ petitioner. It is

further stated that as the 3rd respondent in the writ petition has produced the documents and established his title, the Special Deputy Collector has passed an order in his favour and paid compensation.

6. Basing on the facts mentioned in the counter-affidavit, learned counsel for the petitioners submits that the Government came to the conclusion that the Will dated 05.05.1961 submitted by the writ petitioner before the Land Acquisition Officer under a registered document does not establish his title over the land. It is further submitted that the writ petition is still pending. Learned counsel for the petitioners referred to the paragraph in the counter affidavit filed in the writ petition with regard to disbursing the cheque to the petitioners by the Government, which reads as under:-

“After perusing all the documents produced by the petitioner and also the documents produced by the 3rd respondent herein, the Special Deputy collector has issued orders on 15.07.2008 in favour of the 3rd petitioner herein. Accordingly, compensation was paid to 3rd respondent through cheque bearing No.014676 dated 30.03.2008 for Rs.3,32,800/- in respect of the land in Sy.No.276/2C2 extent Acs.2.56 cents of Boorlapalle Village, P.T.M. Mandal. After payment of compensation to the 3rd respondent, the petitioner without establishing his title over the land in question, even after giving an opportunity to him after passing Award, has submitted another representation dated 02.08.2008 before the Land Acquisition Officer requesting to refer the matter under Section 30 of the Land Acquisition Act to the Civil Court. The petitioner has approached this Court and

filed the present writ petition questioning the order of the Special Deputy Collector dated 15.07.2008.”

7. Learned counsel for the petitioners submits that the Government had issued a cheque in favour of the 1st petitioner-A1 after conducting enquiry into the matter.

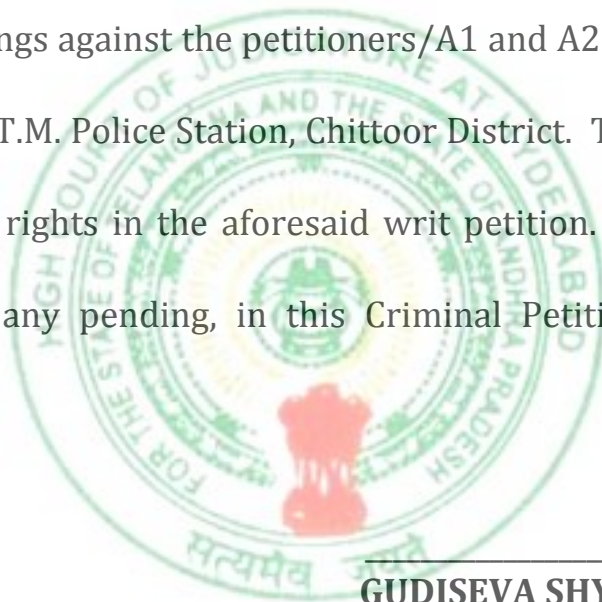
8. On the other hand, learned Public Prosecutor submitted that Crime No.13 of 2011 which was registered under Sections 420, 406 read with 34 of IPC of PTM Police Station, Chittoor District, against the accused has been found to be a false case. The letter addressed by the police department to the State has been filed before the Court wherein it is stated that further investigation in this case is purely false and baseless. Hence, this case is referred as 'false' *vide* C.No.172/RC/SDPO(M)/2011, dated 31.05.2011. Learned Public Prosecutor submits that there is no further investigation to be done in this case as the case is referred as false and therefore, sought for quash of proceedings in Crime No.13 of 2011.

9. Learned counsel for the petitioners submits that in view of the closure of the proceedings by the police, as no case is made out against A1 and A2, the proceedings may be quashed against A1 and A2. It is further submitted that as W.P.No.17396 of 2008 is still pending and there is an interim order granted in that

petition, the parties may seek their remedies in the said writ petition.

10. On consideration of the facts and circumstances of the case, and in the light of the submissions made by both the counsel, the proceedings against the petitioners/A1 and A2 in Crime No.13 of 2011 of P.T.M. Police Station are liable to be quashed.

11. **IN THE RESULT**, the Criminal Petition is allowed, quashing the proceedings against the petitioners/A1 and A2 in Crime No.13 of 2011 of P.T.M. Police Station, Chittoor District. The parties may agitate their rights in the aforesaid writ petition. Miscellaneous Petitions, if any pending, in this Criminal Petition shall stand closed.



GUDISEVA SHYAM PRASAD, J

Date: 09.10.2017

ssp / ksm

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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