

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7113 of 2017

ORDER:

Heard learned counsel for petitioners/ accused Nos.1 and 2 in C.C. No.860 of 2008 pending on the file of Additional Judicial First Class Magistrate, Karimnagar District where the learned Magistrate has taken cognizance for the offence punishable under Sections 447 and 506 r/w 34 IPC, which is outcome of report of 2nd respondent—defacto complainant.

2) Defacto complainant died on 30.12.2009 which is reflected from the death certificate, which is long prior to filing of quash petition. However, he is shown in the array of cause title. Crime No.154 of 2006 dated 25.05.2006 was registered for the above said Sections alleging that the accused trespassed and criminally intimidated the de facto complainant. In fact, there was a civil suit in O.S. No.265 of 1999 on the file of Principal Junior Civil Judge, Karimnagar maintained by these quash petitioners/ accused Nos.2 and 1 against LW.2 as 1st respondent and 2nd respondent herein as 3rd respondent among other four defendants for the relief of permanent injunction claiming through simple sale deed (unregistered) as vendees from the said defendants for the self same property covered by the alleged trespass in the FIR and that the said suit was ended in dismissal originally before the trial Court. Aggrieved by the same, the petitioners preferred A.S. No.53 of 2003 on the file of III Additional District Judge, Karimnagar, and the same was dismissed. Challenging the same, the petitioners filed Second Appeal No.965 of 2007 before this Court and the same was allowed to the extent of remanding the matter to the trial Court

and the trial Court by judgment dt.06.04.2009 decreed the suit holding that these quash petitioners/ accused are in possession pursuant to the said simple sale deed dated 15.10.1998 and the gift deed pursuant to it dated 06.04.1999 valid by revenue record of mutation with possession.

3) Once such is the case, by virtue of the decree of Civil Court of granting permanent injunction, these accused are in possession as plaintiffs restraining the de facto complainant and others not to interfere with their possession which relates to back to the date of suit i.e., 1999, which is not even subsequent to trespass case of 2006. The complaint itself is with no basis for the investigation and filing of final report, thereby the proceedings on that count can be quashed.

4) Accordingly, the Criminal Petition is allowed quashing the proceedings in C.C. No.860 of 2008 on the file of Additional Judicial Magistrate of First Class, Karimnagar by acquitting the accused. The bail bonds of the petitioners/ accused Nos.2 and 1, if any, shall stand cancelled.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 17.08.2017
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