

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.1915 of 2011

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioner/accused seeking to quash the proceedings against him in Crime No.24 of 2011 of III Town Police Station, Karimnagar District, registered for the offences punishable under Sections 465, 468 and 471 IPC.

2. The brief facts of the case are that the petitioner/accused and the first respondent are sons of one Smt. Chilagani Laxmi. Her husband died long back. Chilagani Laxmi is owner of house plot admeasuring 128 square yards in Sy.No.84, situated at Kisan Nagar, Karimnagar, having purchased the same under the a registered sale deed with her own earnings. While so, the said plot was sold to the petitioner by way of Registered Gift Deed in the year 1998 by taking some amount to meet the marriage expenses her younger daughter. The first respondent, who is brother of the petitioner, signed the said Gift Deed as one of the witnesses. After thirteen years of registration of said Gift Deed in favour of the petitioner, the first respondent has started harassing the petitioner and his mother to give a share in the said house plot. In that connection, the petitioner and his mother lodged a complaint on 21.02.2011 before the Sub-Divisional Police Officer, Karimnagar. The first respondent using his influence threatened the petitioner and his mother several times to part with the house

plot or to give money. The first respondent with a *mala fide* intention lodged a complaint on 26.02.2011 and the same was registered as a case in Crime No.24 of 2011 for the offences punishable under Sections 465, 468 and 471 IPC. Hence, the present petition is filed to quash the aforesaid crime.

3. Heard learned counsel for the petitioner and the learned Additional Public Prosecutor.

4. Learned counsel for the petitioner submitted that Smt. Chilagani Laxmi, who is mother of the petitioner and first respondent, is the owner of the house plot; that she herself executed a Gift Deed in favour of the petitioner taking some money to meet the marriage expenses of her younger daughter; that the issue in the present case is of civil nature, the police ought not to have registered the case for the offences punishable under Sections 465, 468 and 471 IPC and hence, prays to quash the proceedings in the aforesaid crime.

5. Learned counsel for the first respondent *inter alia* contended that the signature of the first respondent has been forged in the alleged Gift Deed, therefore, the first respondent lodged a complaint under Sections 465, 468 and 471 IPC; that there are disputed questions of fact, which can be decided only by adducing evidence.

6. Learned Public Prosecutor opposed for quashing the proceedings.

7. Originally the mother of the petitioner and first respondent is the owner of house plot. She gifted the said property in favour of the petitioner by taking some money for marriage expenses of her younger daughter and the first respondent is also signed the said document as one of the witnesses. Now, he lodged the present complaint alleging that his signature was forged in the said document. Further, prior to filing of the complaint by the first respondent, the petitioner and his mother also lodged a complaint against the first respondent before Sub-Divisional Police Officer, Karimnagar, and whether the said complaint was registered or not is not brought to the notice of this Court. These are disputed questions of fact, which cannot be decided by this Court while exercising the power under Section 482 Cr.P.C. Therefore, I do not find any ground to quash the proceedings.

8. Accordingly, the Criminal Petition is dismissed, however, it is appropriate to direct the police to follow the conditions stipulated in Section 41-A Cr.P.C., and also the Judgment of the Hon'ble Apex Court in ***Arnesh Kumar v. State of Bihar and another***¹.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

GUDISEVA SHYAM PRASAD, J

OCTOBER 11, 2017

YVL

¹ 2014 (2) ALT (CrL.) 457 (SC)

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



CRIMINAL PETITION No.1915 of 2011

Date:11.10.2017

YVL