

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.535 OF 2017

ORDR:

The present Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner - sole accused viz., Pochampalli Rajaiah requesting to quash the proceedings against him in Crime No.66 of 2016 of Manthani Police Station, Peddapalli District for the offences punishable under Sections 420, 463, 468 and 471 of the Indian Penal Code, 1860.

2. Heard Sri Alladi Ravinder, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh, and perused the material on record.

3. Learned counsel for the petitioner draws attention of this Court to the complaint averments made by the *de facto* complainant - respondent No.2 herein. His submission is that as seen from the complaint averments, it cannot be construed that the simple sale deed executed by respondent No.2's paternal grand father is a forged document and the offence punishable under Section 420 of the Indian Penal Code, 1860, therefore, would not sustain for want of material and there has been litigation before the Revenue Department as well as the Civil Court and according to the learned counsel, a suit was also filed in O.S. No.12 of 2016 on the file of Senior Civil Judge, Manthani and even an application for ad-interim injunction was made

and thus, the claim is also made by the petitioner herein over the subject property and, therefore, the petitioner is falsely implicated by the *de facto* complainant, and thus, sought to quash the proceedings against him.

4. A perusal of the complaint would show the averments relating to signature of the paternal grand father of respondent No.2 alleged to have been forged in fabricating the simple sale deed, and, therefore, at this stage, more particularly, when there is litigation before the revenue authorities and even before the civil Court, it cannot be said that there is no *prima facie* material to proceed with further investigation.

5. Besides the alleged forged document of simple sale deed, the *de facto* complainant has also mentioned that the petitioner in connivance with the Village Revenue Officer and other revenue officials got made the entries in *pahanies* for certain years mentioned in the complaint.

6. Therefore, it is not a fit case to view that it is directed in the direction of abuse of process of Court or can it be construed that there is no *prima facie* material to quash the proceedings against the petitioner.

7. Therefore, the Criminal Petition is dismissed at the stage of admission itself. However, if the matter falls under Section 41A of the Code of Criminal Procedure, 1973, the concerned officials would

adhere to the mandatory procedure prescribed therein keeping in view the principles laid down by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

January 25, 2017.
PV

¹ (2014) 8 SCC 273

