

THE HON'BLE MS. JUSTICE J.UMA DEVI

CRIMINAL PETITION No.2334 of 2011

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/Accused Nos.6 to 9, 39, 41 to 43 to quash the proceedings in Calendar Case No.981 of 2006 on the file of the III Additional Metropolitan Magistrate, Visakhapatnam.

2. When the matter is taken up for hearing, learned counsel for the petitioners would submit that the other accused i.e., accused Nos.2, 4, 10, 12, 13, 16 to 21, 31, 37, 38, 40, 44 to 49, 51, 57, 58 in C.C.No.981 of 2006 filed Criminal Petition Nos.5943 and 6549 of 2007 and 6388 of 2008 seeking to quash the proceedings in C.C.No.981 of 2006 and the same was allowed on 17.06.2010. A copy of the same is also placed on record.

3. This Court having considered the submissions made by both the counsel in the above mentioned criminal petitions, had taken a view that the dispute involved in C.C.No.981 of 2006 is of civil nature and that the title claimed by the parties can be decided by a competent Civil Court. It was also observed that under any stretch of imagination, it cannot be said that the petitioners therein have committed the offence falling under Section 420 IPC, and this Court having found that continuation of proceedings in C.C.No.981 of 2006

is nothing but abuse of process of law, had allowed the petitions filed by the petitioners therein.

4. Petitioners are accused Nos.6 to 9, 39, 41 to 43 in C.C.No.981 of 2006 and their case stands on the same footing. Therefore, no other view can be taken by this Court except quashing the proceedings in C.C.No.981 of 2006 against the petitioners and continuation of proceedings against the petitioners is nothing but abuse of process of law, as the dispute is of civil nature.

5. Applying the view taken by this Court in Criminal Petition Nos.5943 and 6549 of 2007 and 6388 of 2008, which are filed by some of the accused in the same Calendar Case i.e., C.C.No.981 of 2006, proceedings against the present petitioners pending in C.C.No.981 of 2006 are hereby quashed.

6. Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.981 of 2006 on the file of the III Metropolitan Magistrate, Visakhapatnam, are hereby quashed against petitioners/ Accused Nos.6 to 9, 39 and 41 to 43. Liberty is given to the petitioners and the respondents to approach the competent Civil Court to work out the remedies available to them under law.

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

JUSTICE J.UMA DEVI

Date:11.10.2017
INL