

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.5412 of 2011

ORDER:

Heard learned counsel for the petitioners and the learned Public Prosecutor.

Though notice is served on the 2nd respondent, she has not chosen to appear either in-person or engaging any counsel.

The present petition is filed by the petitioners to quash the proceedings initiated against them in C.C.No.148 of 2009 for the offence under Section 420 IPC on the file of the Court of Judicial Magistrate of First Class, Adoni.

The brief facts of the case are that originally, the 2nd respondent filed a complaint on 23.01.2009 at 13.00 hours before the Station House Officer, Adoni Town Police Station, stating that he is a resident of Chowkimatham, Adoni Town. They are two brothers and three sisters for his parents and his father died four years back. His family got landed property admeasuring Ac.3.19 cents near Rayalaseema Mills, Adoni. On 07.08.2008, his mother without any knowledge of his and other family members, sold the land to one K.Chandrasekhara Reddy, who is the resident of his town, for Rs.25 lakhs and entered into an agreement of sale by receiving Rs.10 lakhs as advance. On coming to know about the same, when the 2nd respondent enquired with his mother, she stated that they have no right in the above said landed

property. However, two months prior to lodging the complaint, his mother eloped with one Srinivasulu, Excise Constable, along with gold ornaments and cash of Rs.10 lakhs received as advance for sale of the abovesaid land, thereby, she cheated him and the other family members and requested to take appropriate action against the petitioners. Pursuant to the said complaint, a crime has been registered vide FIR.No.13 of 2009 for the offence under Section 420 IPC. Pursuant to the registration of the said crime, investigation conducted and charge sheet has been filed. The Judicial Magistrate of First Class, Adoni, has taken the file on record and numbered as C.C.No.148 of 2009. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioners would contend that the matter is purely civil in nature and even if the 2nd respondent and the other family members are aggrieved by the subject sale of land, it is always open for them to approach the competent civil Court and seek appropriate remedies. She further contended that the ingredients of Section 420 IPC are not satisfied. Therefore, the proceedings initiated against the petitioners are liable to be quashed.

Learned Public Prosecutor appearing for the 1st respondent - State fairly conceded that from a perusal of the complaint as well as the charge sheet no case is made out.

However, a perusal of the contents of the complaint discloses that the petitioners have not committed an offence

under Section 420 IPC. That apart, on investigation the charge sheet, which was filed, is totally silent with regard to commission of any offence much less Section 420 IPC and it is only the replica of complaint lodged by the wife of the 2nd respondent.

When the complaint as well as the charge sheet is bereft of any material particulars, *prima facie*, satisfying the ingredients of Section 420 IPC, the proceedings initiated against the petitioners are liable to be quashed. Even if the transaction entered into with the mother of the 2nd respondent is proved to be correct, then also the remedy available to the 2nd respondent is a competent civil Court where he can seek appropriate remedies available under law. The matter, which is purely civil in nature, cannot be given colour of criminal in nature. In these circumstances, as no *prima facie* case is made out to proceed against the petitioners, this Court feels that the proceedings are to be quashed.

Accordingly, the criminal petition is allowed thereby quashing the proceedings initiated against the petitioners in C.C.No.148 of 2009 for the offence under Section 420 IPC on the file of the Judicial First Class Magistrate, Adoni.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE P. KESHA RAO

Date: 19.12.2017.
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