

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.226 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused Nos.1 and 2, seeking to quash the proceedings in F.I.R.No.829 of 2016 on the file of the Uppal Police Station, Hyderabad.

2. Heard the learned counsel for the petitioners/accused Nos.1 and 2, learned counsel for the 3rd respondent/de-facto complainant, learned Public Prosecutor (Telangana) appearing for the respondents 1 & 2 and perused the record.

3. The learned counsel for the petitioners/accused Nos.1 and 2 would contend that the petitioner/accused No.2 is the owner and possessor of the disputed plot No.107 admeasuring 189 square yards in Survey No.744 and 747 situated at Block No.11, Srinagar Colony, Uppal Kalan village, Uppal Mandal under GHMC Uppal Circle, Ranga Reddy District. He has had a registered document in respect of the above plot. The de-facto complainant has no title, interest whatsoever over the said plot. There is no valid sale as alleged by the de-facto complainant in favour of her husband by the father of the 1st petitioner/accused No.1. The de-facto complainant created a false story to grab the plot in dispute. When the husband of the de-facto complainant Pocham Satyanarayana interfered with the lawful possession and enjoyment of the 2nd petitioner/accused No.2 over the above

plot, he filed a suit in O.S.No.739 of 2015 on the file of the I Additional Junior Civil Judge, Ranga Reddy District at L.B.Nagar, and obtained a decree on 04.05.2016 restraining the husband of the de-facto complainant and another from causing any sort of interference over the disputed plot.

4. It is evident from the material placed on record that the husband of the de-facto complainant expired on 10.02.2003. As per the record and the contentions made on behalf of the respondent No.3/de-facto complainant, after the expiry of the husband of the de-facto complainant, the property is being enjoyed by her family members under registered documents. The husband of the de-facto complainant purchased the same by a notarised agreement of sale on 24.02.1987 from the father of 1st petitioner/accused No.1 for valuable sale consideration. For knocking away the property, the petitioners/accused Nos.1 and 2 have created a false and bogus document.

5. It is apparent from the record that Pocham Satyanarayana expired on 10.02.2003 and the suit in O.S.No.739 of 2015 is filed in the year 2015 alleging unlawful interference against a dead person. If really Pocham Satyanarayana died on 10.02.2003, the decree obtained by the 2nd petitioner/accused No.2 is a nullity. That reflects *mala fides* on the part of the petitioners/accused Nos.1 and 2. It is evident from the record that there are allegations of cheating and fabricating documents to knock away the property in dispute by the petitioners/accused Nos.1 and 2. In these circumstances, the matter is requires to

be investigated. Merely because a decree is obtained by 2nd petitioner/accused No.2, the investigation cannot be stalled.

6. The learned counsel for the petitioners/accused Nos.1 and 2 relied on a decision of the Hon'ble Apex Court in M/ s.Thermas Ltd., and others Vs. K.M.Johny and others¹, wherein, the Hon'ble Apex Court held that there was inordinate delay and laches, the complaint itself is inherently improbable contains the flavour of civil nature and taking note of the closure of earlier complaints that too after thorough investigation by the police, the Magistrate committed an error in calling for report under Section 156(3) of Cr.P.C. The facts and circumstances of the case on hand are quite different from the facts and circumstances of the above referred decision and thus, it has no application to the instant case. The Criminal Petition is devoid of merit and is liable to be dismissed.

7. At this juncture, the learned counsel for the petitioners/accused Nos.1 and 2 would submit that the petitioners/accused Nos.1 and 2 may be given protection by directing the police concerned not to arrest them during the course of investigation. As there are *mala fides* on the part of petitioners/accused Nos.1 and 2 and allegations of fabricating and creating bogus document to knock away the property, this Court is not inclined to accede to the request of the learned counsel for the petitioners/accused Nos.1 and 2.

8. In the result, the Criminal petition is dismissed.

¹ 2012 (1) ALT (Crl.) 145 (SC)

Pending miscellaneous petitions, if any, in this Criminal
Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

25th October, 2017

Note:-

Furnish C.C. by 26.10.2017

(B/O)

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