

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3118 OF 2017

ORDR:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the First Information Report in Crime No.74 of 2016 of Anakapalli Town Police Station, Visakhapatnam District, State of Andhra Pradesh.

2. The petitioners herein, who are arraigned as accused Nos.2 to 5 in the aforesaid crime, along with accused No.1 alleged to have committed the offences punishable under Sections 423, 468 and 420 read with 34 of Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri E. Venkata Reddy, learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioners would submit that a purely civil dispute has been converted into criminal action and the present case is a concrete example according to him. He also would submit that petitioner No.3 has filed O.S. No.19 of 2000 on the file of the Principal Junior Civil Judge, Anakapalli, Visakhapatnam District against late Chintala China Sanjeeva Rao, late Smt. Chinthala Kondayamma, arraying them as defendant Nos.1 and 2, for specific performance of an agreement of sale, dated 12.10.1989, and petitioner

Nos.1 and 2 were impleaded as legal representatives defendant Nos.1 and 2 as per orders, dated 14.09.2011, in I.A. No.190 of 2011 and, thereafter, the suit was decreed on 01.08.2012; petitioner No.1 is daughter-in-law of defendant Nos.1 and 2, while petitioner No.2 is their daughter. After the suit was decreed, petitioner No.3 herein has filed E.P. No.51 of 2013 for execution of the decree, and the learned Principal Junior Civil Judge, Anakapalli was pleased to execute a registered sale deed vide document No.2205 of 2016, dated 04.30.2016 in his favour. Under these circumstances, the offences alleged against the petitioners cannot be said to have been made out against them and, therefore, the proceedings are liable to be quashed.

5. The learned Assistant Public Prosecutor would resist the request.

6. The fact-situation would show that the *de facto* complainant said to have purchased subject property of 503.86 square yards in Survey No.495/15 with Asst. No.736/10 from Bolisetti Sanjeevamma, Bolisetti Srinivas, Bolisetti Bhasker Rao and others through a registered sale deed, dated 29.12.2012; the petitioners have no right or interest over the subject property; his vendors filed a suit before the Principal Junior Civil Judge, Anakapalli; during the pendency of said proceedings, Chintal Kondababu has categorically stated before the Police that he was not concerned with the subject property and he has no right therein; but, subsequently, petitioner Nos.1 and 2 herein in collusion with the land brokers i.e., Peela Ramesh Appalanaidu

(Petitioner No.4) and Silaparasetty Adibabu, created a nominal and collusive agreement of sale - cum - Power of Attorney in respect of the said property on 17.07.2008, and basing on the said document, started a dispute with his property; as per the elders' advise, the said power of attorney was cancelled on 26.02.2015 through a registered cancellation deed, and the petitioners are parties to the said cancellation deed and, thus, they are aware that they do not have any right over the subject property. While the things stood thus, the petitioners knowing full well that they have no right over the property and suppressing the real facts, made the judicial authorities to execute a sale deed on their behalf in the name of Gangiredla Venkunaidu (Petitioner No.3) and attempted to trespass into the property basing on the fraudulent transaction and, thus, created valuable documents without any right, to cause wrongful loss to him and wrongful gain to them.

7. When a registered cancellation deed, dated 26.02.2015 is referred to in the complaint, to which the petitioners are also parties, they got the sale deed executed in favour of petitioner No.3 by a Civil Court in execution proceedings, certainly, these aspects require a thorough investigation into the crime so as to unravel the truth and just basing on the execution of the sale deed by a Civil Court, it is difficult, at this stage, to hold that investigation into the crime would amount to the abuse of process of law. It is open to the petitioners, in

case they so choose, to file a discharge petition if Investigating Agency charges the petitioners with any of the offences.

Thus, the Criminal Petition is dismissed, at the stage of admission itself. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

April 26, 2017.
Mgr

