THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.9692 OF 2016

ORDER:

This criminal petition is filed under Section 482 Cr.P.C by the petitioner/accused to quash the proceedings in C.C.No.3023 of 2013 pending on the file of XIX Metropolitan Magistrate, Cyberabad, Kukatpally, at Miyapur, for the offences punishable under Sections 419, 420, 468, 471 & 465 of IPC.

The facts of the case are that the second respondent/ complainant acquired land to an extent of Ac.27-00 gts, through registered sale deed bearing Document No.14 of 1966 dated 17.01.1966 and Document No.797/66 dated 18.08.1966 for valuable sale consideration from one Sri Madhan Mohan Dube and Sri Surendra Mohan Dube, sons of Ramprasad Dube, who were the pattedars of the said land and took possession of the property as lawful owner. Thus, the second respondent/complainant became the owner of the property as on the date of obtaining the sale deeds referred supra. It is the case that there was a false claim made by the government on the land in Sy.No.124 stating that it is Government land and thereby, the name of second respondent/complainant was not recorded in the revenue records, as per Section 3 of the Record of Rights Act, 1971, on the basis of the registered sale deed bearing Document No.14/1966 dated 17.01.1966 and Document No.797/66 dated 18.08.1966. Ultimately, after prolonged persuasion by the second respondent/complainant and the respective purchasers of total extent of land admeasuring Ac.279.38 gts., in Sy.No.124, the

Government of Andhra Pradesh through the CCLA had given response agreeing that the land in Sy.No.124 is a private patta land vide proceedings of the CCLA in file bearing No.BB1/2209/07 dated 05.06.2008 and thus the cloud on the title, ownership and lawful possession of the land was removed in the year 2008. While the matter stood thus, it is alleged that the petitioner/accused represented by its Managing Director G. Rama Raju had created and manipulated document bearing Doc.No.3482/93 dated 24.11.1992 by impersonating the signatures of widow of Sri Madhan Mohan Dube i.e. Smt. Pushpa Bai after his death, to claim right and title over the property of the complainant, which was already sold by Sri Madhan Mohan Dube and Sri Surendra Mohan Dube to the second respondent/ complainant by registered sale deeds.

The second respondent/complainant filed LGC No.41 of 2010 against the petitioner and the widow of Madhan Mohan Dube before the Land Grabbing Court. The widow of Madan Mohan Dube i.e Smt. Pushpa Bai in her counter affidavit categorically stated that she had not executed any document in favour of the petitioner/accused and that Mr. G. Rama Raju had created fraudulent document by resorting to impersonation, forged the signatures of Smt. Pushpa Bai. Further, Smt. Pushpa Bai in her counter affidavit stated that she had caused a paper publication in 'Deccan Chronicle' daily newspaper claiming ownership over the said land and she came to know that somebody by resorting to impersonation, forged her signatures, brought into existence, a sale deed bearing Doc.No.3482/93 dated 24.11.1992 which was not executed by her and she was constrained to take steps for issuance of legal notice on 04.09.193 to the petitioner/accused, complaining that the document dated 24.11.1992 is created by impersonation and it is sham, nominal and bogus document and the said transaction is not binding on her. Therefore, it is stated that the petitioner/accused allegedly committed a serious offences punishable under Sections 415, 420, 468, 471, 506, 408 & 120-B of IPC.

The IX Metropolitan Magistrate Kukatpally at Miyapur, Cyberabad referred the complaint to the Station House Officer, Chandanagar by exercising power under Section 156(3) Cr.P.C. The police in-turn registered the case as Crime No.70 of 2012 dated 06.02.2012 and issued FIR. After due investigation, the police filed charge-sheet against the petitioner on 25.08.2012 for the offences punishable under Sections 419, 420, 468, 471 & 465 of IPC, alleging that the accused created forged documents by impersonating Smt. Pushpa Bai and requested to issue Non Bailable Warrant against the petitioner/accused. The case was taken on file by the IX Metropolitan Magistrate Kukatpally at Miyapur, Cyberabad by order dated 25.08.2012 against the petitioner for the offences punishable under Sections 419, 420, 468, 471 & 465 of IPC and issued Non Bailable Warrant.

Thereafter, the petitioner/accused filed Crl.MP.No.2249 of 2015 in CC.No.3023 of 2013 under Section 239 Cr.P.C to discharge the petitioner/accused from accusations leveled in the charge sheet. But the Trial Court after elaborate consideration of the material on record, dismissed the petition on 11.09.2015 declining to discharge the petitioner from accusations leveled in the charge sheet. Aggrieved by the order in Crl.MP.No.2249 of 2015 in CC.No.3023 of 2013, the petitioner preferred Crl.R.P.No.153 of 2015 before the XV Additional Sessions Judge, Ranga Reddy District, Kukatpally at Miyapur. Confirming the order of the Trial Court, Crl.P.No.153 of 2015 was also dismissed by the Sessions Court on 07.06.2016. In view of dismissal of petition filed under Section 239 Cr.P.C, the petitioner filed Crl.P.No.9692 of 2014 before this Court raising identical contentions which were raised before the Trial Court, to quash the order in Crl.MP.No.2249 of 2015 in CC.No.3023 of 2013.

The main grounds raised in the present petition are as follows:

a) The IX Metropolitan Magistrate, Kukatpally took cognizance of the offence against the petitioner without any *prima facie* material to constitute offences punishable under Sections 419, 420, 468, 471 & 465 of IPC and the Magistrate without applying her mind, proceeded to take cognizance and issued non-bailable warrant against the petitioner. Therefore, such proceedings would amount to abuse of process of Court, since the police filed final report without conducting proper investigation.

b) It is also contended that, though the Apex Court in ***Arnesh Kumar v. State of Bihar and another***[1] issued certain guidelines to conduct investigation and file final report, the procedure under Section 41-A Cr.P.C was not followed. Therefore, the proceedings pending before the Court are vitiated by irregularity.

---
[1] (2014) 8 SCC 273

c) The conclusions arrived by the investigating agency are not based on proper investigation and inspection, and arriving at such conclusion based on the statement of Smt. Pushpa Bai w/o Madhan Mohan Dubey, is not sufficient to proceed against the petitioner/accused for the offences punishable under Sections 419, 420, 468, 471 & 465 of IPC.

d) When LGC No.41 of 2010 is pending before the Land Grabbing Court where an identical question was raised by Smt. Pushpa Bai W/o Madhan Mohan Dubey, the same cannot be agitated in a criminal litigation and it amounts to abuse of process of the Court.

e) The petitioner/accused is in physical possession till date, after mutating the name of the company in the revenue records, obtained pattedar passbook and title deeds after following due process of law.

f) The second respondent having failed to take possession of the land from the petitioner's company in the Land Grabbing Court, he hatched a plan to bring the petitioner to his terms by resorting to criminal litigation and it is an abuse of process of the Court.

It is contended by the petitioner/accused that the proceedings pending before the Land Grabbing Court are absolutely groundless and even if the allegations made in the charge sheet, if taken on its face value, in its entirety would constitute no offences punishable under Sections 419, 420, 468, 471 & 465 of IPC and therefore, the proceedings pending in C.C.No.3023 of 2013 on the file of XIX Metropolitan Magistrate, Cyberabad, Kukatpally, at Miyapur are liable to be quashed.

Whereas, learned counsel for the 2nd respondent/complainant filed counter, denying material allegations, while admitting filing of LGC.No.41 of 2010 against Smt. Pushpa Bai, w/o late Madhan Mohan Dube and the petitioner/accused and also alleging that he purchased the property under two registered sale deed in the year 1966 from Madhan Mohan Dubey and Surendra Mohan Dubey, thereby, he became owner of the property. That apart, the petitioner/accused filed Crl.MP.No.2249 of 2015 in C.C.No.3023 of 2013 before the II AJCJ-cum-XIX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur and the said application ended in dismissal. Aggrieved by the order in Crl.MP.No.2249 of 2015, the same was challenged before the XV Additional Sessions Judge, Ranga Reddy District, Kukatpally, at Miyapur in Crl.R.C.No.153 of 2015, where the Sessions Judge dismissed Crl.R.C.No.153 of 2015 by confirming the order of the XIX Metropolitan Magistrate, Cyberabad. Therefore, when the Court found that there is *prima facie* material to proceed against the petitioner/accused, the proceedings cannot be quashed by exercising power under Section 482 Cr.P.C.

During hearing, learned Senior Counsel Sri S. Ravi, appearing for the petitioner would contend that the sale deed/document was allegedly brought into existence by the petitioner on 24.11.1992 and the charge sheet was filed in 2016 i.e. almost after lapse of more than 14 years, thus, the petitioner perfected his title by adverse possession. In such a case, the remedy open to the second respondent/complainant is to recover possession and when the claim of the second respondent is barred by limitation to recover possession of the property, the present petition is filed as an abuse of process of the Court. In such a case, the proceedings shall not be allowed to be continued.

The main contention of the learned Senior Counsel appearing for the petitioner is that, when civil proceedings are pending before the Land Grabbing Court, the second respondent is not entitled to file a complaint against the present petitioner/accused. That apart, the offence allegedly took place long ago but filed the complaint after lapse of time. In such a case, proceeding against the petitioner/accused in a Criminal Court is nothing but abuse of process of the Court. Therefore, the second respondent/complainant cannot be allowed to proceed against the petitioner in Criminal Court.

In support of his contention, learned Senior Counsel appearing for the petitioner placed reliance on the judgments of the Supreme Court in **Mahalaxmi Motors Ltd. V. Mandal Revenue Officer and others**[2], **G. Sagar Suri and another v. State of U.P. and others**[3], **International Advanced Centre for Powder Metallurgy and New Materials (ARCI) and others v. Nimra Cerlglass Technics Private Limited and another**[4], **Umesh Kumar v. State of Andhra Pradesh**[5], **K. Parvathamma v. The Commissioner of Excise (Board**

---

[2] (2007) 11 Supreme Court Cases 714
[3] (2000) 2 Supreme Court Cases636
[4] (2016) 1 Supreme Court Cases 348
[5] AIR 2014 SC 1106

of Revenue), Govt. of Andhra Pradesh, Hyderabad[6], Mohammed Ibrahim and others v. State of Bihar and another[7], Thermax Limited and others v. K.M. Johny and others[8], State of A.P. v. Prameela Modi (Smt) and others[9].

The second respondent/complainant further contended that though the limitation for taking cognizance is provided under the provisions of Cr.P.C, but it starts from the date of knowledge about forgery of the documents and such fact came to the notice of the petitioner/accused only on publication made by Smt. Pushpa Bai in a newspaper, till then, the second respondent/complainant is unaware about the forgery of the documents and therefore, limitation can never be a ground to quash the proceedings, at the inception, limitation cannot be taken into consideration for quashing the proceedings.

The Court can exercise its inherent power under Section 482 Cr.P.C only when there is a abuse of process of the Court or the complaint is aimed to wreck vengeance against the petitioner/accused. But, when the petitioner/accused forged the document to claim title over the property, the Court cannot exercise such inherent power in favour of such accused and therefore, the Court cannot exercise its power under Section 482 Cr.P.C in favour of the petitioner and quash the proceedings in C.C.No.3023 of 2013.

It is further contended that, when a criminal revision petition under Section 397 Cr.P.C was dismissed by the Sessions Court, the

---

[6] AIR 1970 AP 333
[7] (2009) 8 Supreme Court Cases 751
[8] (2011) 13 Supreme Court Cases 412
[9] (2006) 13 Supreme Court Cases 147

petitioner/accused is not entitled to file the present petition. At best, the petitioner/accused is entitled to question the same before the High Court.

Thus, when the petitioner/accused was not discharged from the accusations in the charge sheet, this Court cannot exercise power under Section 482 Cr.P.C and quash the proceedings. It is also contended that failure to follow procedure under Section 41-A Cr.P.C is not a ground to quash the proceedings. Therefore, there are absolutely no grounds to quash the proceedings and prayed for dismissal of the criminal petition.

In support of his contentions, learned counsel placed reliance on the judgments of the Supreme Court in **C.B.I. v. M/s Blue Sky Tie-Up Pvt. Ltd & ors**[10] and **Kamaladevi Agarwal v. State of West Bengal and others**[11] and on the strength of the above contention, the second respondent/complainant prayed for dismissal of the petition.

Considering rival contentions and perusing the material available on record, the point that arises for consideration is as follows:

"Whether there exists any ground to proceed against the petitioner in a Criminal Court in C.C.No.3023 of 2013 pending on the file of XIX Metropolitan Magistrate, Cyberabad, Kukatpally for the offences punishable under Sections 415, 420, 468, 471, 506, 408 & 120-B of IPC. **If not, whether the**

[10] (2011) 15 SCC 144
[11] (2002) 1 Supreme Court Cases 555

proceedings in C.C.No.3023 are liable to be quashed by exercising power under Section 482 Cr.P.C"

P O I N T:

Before deciding various contentions, I would like to advert to law laid down by the Apex Court regarding the scope of Section 482 Cr.P.C and the power of this Court under Section 482 Cr.P.C, it is as follows:

In **State of Haryana** v. **Bhajan Lal**[12] this Court considered in detail the scope of provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
>
> (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

---

[12] 1992 Supp. (1) SCC 335

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

In ***State of Karnataka*** v. ***L. Muniswamy and Ors.***[13], the Supreme Court while considering scope and jurisdiction of the High Courts under Section 482 Cr.P.C, has held as under:

> "In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case,

[13] AIR 1977 SC 1489

> the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction."

Section 482 of Cr.P.C. saves the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. It is an obvious proposition that when a Court has authority to make any order, it must have also power to carry that order into effect. If an order can lawfully be made, it must be carried out; otherwise it would be useless to make it. The authority of the court exists for the advancement of justice, and if any attempt is made to abuse that authority so as to produce injustice, the court must have power to prevent that abuse. In the absence of such power the administration of law would fail to serve the purpose for which alone the court exists, namely to promote justice and to prevent injustice.

(a) The first and foremost contention raised by the learned Senior Counsel appearing for the petitioner is that during pendency of LGC No.41 of 2010, the second respondent/complainant is not entitled to file complaint at belated stage and that would amount to abuse of process of the Court.

The complaint was lodged by the 2nd respondent/ complainant in the year 2012, whereas, LGC No.41 of 2010 was filed in the year 2010 itself, against Smt. Pushpa Bai and the petitioner/accused herein. But whereas, the 2nd respondent/ complainant allegedly obtained registered sale deed bearing Document No.14 of 1966 dated 17.01.1966 and Document No.797/66 dated 18.08.1966. But, the petitioner obtained sale deed allegedly by impersonation and forging the signature of Smt. Pushpa Bai in 1992, it came to notice of the 2nd respondent only when Smt. Pushpa Bai filed counter in LGC No.41 of 2010. Thus, the complaint was filed almost after lapse of more than 3 years. But the contention of the second respondent/complainant is that limitation starts from the date of knowledge about occurrence of the offence i.e. forgery of the document by the petitioner impersonating Smt. Pushpa Bai and it came to the knowledge of the petitioner only when Smt. Pushpa Bai filed counter in LGC after 2010 disclosing issue of paper publication about forgery of her signature on document by the petitioner during pendency of LGC proceedings, dated 22.12.1992 in Deccan Chronicle newspaper in the caption 'buyers beware'. Further, Smt. Pushpa Bai was examined as witness on 07.02.2012 by the Sub-Inspector of Police, Chandaganar. Taking advantage of the delay of more than 3 years in lodging the complaint, learned Senior Counsel Sri S. Ravi contended that filing a complaint after the long delay of 3 years is a ground to quash the proceedings.

In support of his contention, learned Senior Counsel appearing for the peititoner placed reliance on the judgment of the Supreme Court in **Suresh v. Mahadevappa Shivappa Danannava and**

another[14]. In the facts of the above judgment, an agreement was executed on 25.12.1988 and later a legal notice was issued to the appellant on 11.07.1996 calling upon the appellant to execute the sale deed in respect of the premises in question. Thus, the complaint was submitted after 7 ½ years of splendid silence from the date of the alleged agreement to sell i.e. 25.12.1988. It was also clear from the record that a legal notice dated 11.07.1996 and reply dated 18.07.1996 through a counsel was issued specifically denying the alleged agreement and the payment of Rs.1.25 lakhs as advance. But filed complaint after lapse of 7 ½ years for the offence i.e. on 04.08.2000 for the offence punishable under Section 420 I.P.C and the Magistrate took cognizance under Section 191(b) Cr.P.C and issued summons to the accused/appellant. Aggrieved by the aforesaid process order dated 04.08.2000 passed by the Magistrate, the appellant preferred criminal revision before the High Court and dismissed. The Apex Court observed that the High Court has passed the order in a mechanical way without applying its mind and observed that the perusal of the complaint would show that the entire dispute raised by the complainant is based on the alleged agreement to sell dated 25.12.1988 nearly 11 years prior to the filing of the private complaint on 17.05.1999. The existence of any such agreement or any such advance taken has been specifically denied by the appellant by way of his reply dated 18.07.1996 in response to the legal notice dated 17.05.1999. Further, it was observed that the complaint was filed on 17.05.1999 i.e. after lapse of 10 ½ years and therefore, the very private complaint filed by the 1st respondent is not at all maintainable at this distance of time. The Apex Court further

14 (2005) 3 Supreme Court Cases 670

observed that it is the specific case of accused 1 that he has not executed any agreement to sell or received any advance payment. Thus, the Supreme Court viewed that the complaint does not disclose the ingredients of Section 415 Cr.P.C and, therefore, unhesitatingly to set aside the order passed by the Magistrate taking cognizance of the offence alleged. It is also not clearly proved that to hold a person guilty of cheating, it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. The order of the Magistrate and of the High Court requiring Accused 1 to face trial would not be in the interest of justice. On the other hand, the Supreme Court was of the considered opinion that it is a fit case for setting aside the order of the Magistrate as confirmed by the High Court for issuance of process and the proceedings itself.

Even, if the principle laid down in the above judgment is applied to the present facts of the case, the second respondent is entitled to prosecute the proceedings as the creation of document came to the notice of 2nd respondent only after 2010, hence on the ground of delay the proceedings in C.C.No. 3023 of 2013 cannot be quashed.

Learned counsel for the 2nd respondent contended that limitation starts from the date of knowledge of factum of forgery of document and it came to the notice of the 2nd respondent only after counter in LGC by Smt. Pushpa Bai was filed i.e after 2010 disclosing that a publication was made in the newspaper by Smt. Pushpa Bai. Till then, the 2nd respondent is unaware of the forgery of the document and therefore, the limitation cannot be a ground to quash the proceedings, at the inception, limitation cannot be taken into consideration for quashing the proceedings. No doubt, Smt. Pushpa Bai published a notice in the newspaper in the year 1992 alleging that by impersonating the signatures of Smt. Pushpa Bai on the document purported to have executed by her, by forging her signature converging the property of the complainant, though, a notice was published in the newspaper by Pushpa Bai in the year 1992, the complaint was filed in the year 2012 i.e. after lapse of almost 10 years, however, within a year after filign counter by Smt. Pushpa Bai. Therefore, filing of such complaint at a belated stage may result in wiping out the evidence to establish the case by either of the parties but Smt. Pushpa Bai is alive who can identify her signature on the document. Therefore, on that ground, the proceedings cannot be quashed.

The Apex Court in **Suresh**[14] case concluded that when the complaint was filed at a belated stage, the complaint is liable to be quashed, but not on the ground of limitation. No doubt, the limitation cannot be taken at the initial stage as a ground to quash the proceedings.

In **Japani Sahoo v. Chandra Sekhar Mohanty**[15], the Apex Court at paragraph No.14 held that "14. The general rule of criminal justice is that "a crime never dies". The principle is reflected in the well- known maxim *nullum tempus aut locus occurrit regi* (lapse of time is no bar to Crown in proceeding against offenders). The Limitation Act, 1963 does not apply to criminal proceedings unless there are express and specific provisions to that effect, for instance,

[15] AIR 2007 SC 2762

Articles 114, 115, 131 and 132 of the Act. It is settled law that a criminal offence is considered as a wrong against the State and the Society even though it has been committed against an individual. Normally, in serious offences, prosecution is launched by the State and a Court of Law has no power to throw away prosecution solely on the ground of delay. Mere delay in approaching a Court of Law would not by itself afford a ground for dismissing the case though it may be a relevant circumstance in reaching a final verdict.

In case of ***Sajjan Kumar v. Central Bureau of Investigation***[16], the Hon'ble Apex Court at paragraph No.37 held that though delay is also a relevant factor and every accused is entitled to speedy justice in view of Article 21 of the Constitution, ultimately it depends upon various factors/reasons and materials placed by the prosecution. The Apex Court also held that merely because of long delay the case of the prosecution cannot be closed.

In **Noida Entrepreneurs Association v. Noida and others**[17], the Apex Court at paragraph No.18 held that, thus, it is evident that question of delay in launching criminal prosecution may be a circumstance to be taken into consideration in arriving at a final decision, but it cannot itself be a ground for dismissing the complaint. More so, the issue of limitation has to be examined in the light of the gravity of the charge.

Therefore, the contention of the respondent that limitation cannot be taken as a ground at the initial stage is supported by the law declared by the Supreme Court in the decisions referred supra.

---

[16] (2010) 9 SCC 368
[17] AIR 2011 SC 2112

However, in **Suresh**[14] case, the Supreme Court quashed the proceedings on account of belated action by exercising power under Section 482 Cr.P.C. But, in view of the three judgments referred supra, at the initial stage, delay cannot be considered as a ground to quash the proceedings. However, the judgments are in conflict to one another. But, in the present facts of the case, the 2nd respondent wanted to take advantage of the knowledge about execution of the document i.e. during pendency of LGC before the Court when Smt. Pushpa Bai filed a counter alleging that she gave a paper publication/notice in the caption 'buyers beware' alleging that this petitioner created a document by impersonation. When the offence for the first time came to the notice of the petitioner and filed an application, since the petitioner filed counter for the first time in LGC, claiming title based on the alleged forged documents by impersonation of Smt. Pushpa Bai. Therefore, at this stage, it is difficult for me to conclude that, in view of the long delay from the date of execution of document i.e. from 1992 onwards, the proceedings cannot be quashed. Hence, I find no substance in this contention raised by the learned counsel for the petitioner. However, it is left open to the parties to raise such contention during trial before the Court for the offences, if any, the petitioner is being tried.

(b) One of the contentions raised by the learned Senior Counsel appearing for the petitioner is that the proceedings in Land Grabbing Court are pending and the petitioner is entitled to prosecute the proceedings in a Criminal Court. Undisputedly, the land grabbing proceedings are pending in LGC No.41 of 2010 before Land Grabbing Court. There, Smt. Pushpa Bai raised a specific plea that the signatures on the Doc.No.3482/93 dated 24.11.1992 of Smt. Pushpa Bai are forged by the petitioner and till today, no such finding was recorded by the Land Grabbing Court.

The proceedings should not be quashed merely because of pendency of civil proceedings between the same parties, even if it be pending in a higher court, since the nature and scope and standard of proof required in civil and criminal proceedings are distinct and inherent power under Section 482 Cr.P.C should be exercised sparingly. The Apex Court also held that when the Trial Court found that the complainant had made out a *prima facie* case against the accused persons, of forgery of a document (a deed of dissolution of partnership firm), the High Court was not justified in quashing the criminal proceedings merely on the ground that the same document was under scrutiny by it in a civil proceeding initiated by the same complainant, as held in **Kamaladevi Agarwal**[11].

In view of the law declared by the Apex Court in **Kamaladevi Agarwal**[11] case, the contention of the learned Senior Counsel appearing for the petitioner that when the same document is allegedly created or forged, the signatures of Smt. Pushpa Bai are under the scrutiny in land grabbing proceedings at this stage. Hence, on this ground, the proceedings in C.C.No.3023 of 2013 cannot be quashed, upholding the contention of the 2nd respondent.

(c) One of the contentions raised by the learned counsel for the 2nd respondent is that, after framing charges and when a petition for discharge of the petitioner was filed and ended in dismissal, confirmed by the Revisional Court, having found that there is a *prima* *facie* material against the petitioner to proceed and framed charges, the Court cannot quash the proceedings by exercising inherent powers under Section 482 Cr.P.C. Undoubtedly, the petitioner/ accused filed Crl.MP.No.2249 of 2015 in CC.No.3023 of 2013 under Section 239 Cr.P.C to discharge the petitioner/accused and the same was dismissed by the Court on 11.09.2015, declining to discharge the petitioner for the alleged offences. Aggrieved by the order passed in Crl.MP.No.2249 of 2015 in CC.No.3023 of 2013, the petitioner preferred Crl.R.C.No.153 of 2015 on the file of XV Additional Sessions Judge, Ranga Reddy District, Kukatpally, at Miyapur, where the Sessions Judge dismissed Crl.R.C.No.153 of 2015 by confirming the order of the XIX Metropolitan Magistrate, Cyberabad. Thus, the order declining to discharge the petitioner under Section 239 Cr.P.C has attained finality.

Normally, the charges will be framed only when there is material to proceed against the accused to constitute a *prima facie* offence or offences. When the Trial Court satisfied about existence of sufficient grounds to proceed against the petitioner herein and framed charges, as there is no substantial material against this petitioner/accused, recording its satisfaction, on the same ground, the petitioner approached this Court to quash the proceedings. But, that by itself is not a ground to quash the proceedings, as jurisdiction under Section 482 Cr.P.C has to be exercised with great care and caution. In paragraph 8 of the judgment in **Sagar Suri**[3] case the Supreme Court held that jurisdiction under Section 482 of the Code has to be exercised with great care. In exercise of its jurisdiction, High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code, Jurisdiction- under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Thus, entertaining an application under Section 482 Cr.P.C after dismissal of an application under Section 239 Cr.P.C is not a ground to dismiss the petition filed under Section 482 Cr.P.C.

Similarly, in **Umesh Kumar**[5] case, the Supreme Court held that law does not prohibit entertaining the petition under Section 482 Cr.P.C. for quashing the charge sheet even before the charges are framed or before the application of discharge is filed or even during its pendency of such application before the Court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. Thus, the judgment of the Apex Court is clear that even if a petition for discharge is filed and pending, the High Court cannot reject the petition filed under Section 482 Cr.P.C. While discussing the facts of the above judgment, the Supreme Court held in paragraph 12 as follows:

> "Once criminal law is put in motion and after investigation the charge sheet is filed, it requires scrutiny in the court of law. However, before the charges could be framed, Umesh Kumar, appellant, approached the High Court under Section 482 Cr.P.C. for quashing of the charge sheet. The scope of Section 482 Cr.P.C. is well defined and inherent powers could be

> exercised by the High Court to give effect to an order under the Cr.P.C.; to prevent abuse of the process of court; and to otherwise secure the ends of justice. This extraordinary power is to be exercised *ex debito justitiae*. However, in exercise of such powers, it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its prima facie satisfaction about the existence of sufficient ground for proceedings against the accused and the court cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed alongwith the petition labelled as evidence without being tested and proved, cannot be examined. Law does not prohibit entertaining the petition under Section 482 Cr.P.C. for quashing the charge sheet even before the charges are framed or before the application of discharge is filed or even during its pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused to undergo the agony of a criminal trial."

In view of the law declared by the Apex Court, the petition under Section 482 Cr.P.C cannot be dismissed on the ground that the petition under Section 239 Cr.P.C before the Trial Court was dismissed. Hence, I do not find any substance in the contention of the learned counsel for the 2nd respondent, as it is without any legal support.

(d) One of the major contention raised before this Court by the learned Senior Counsel appearing for the petitioner is that the dispute is purely civil in nature, i.e. the proceedings before the Land Grabbing Court are pending under A.P. Prohibition of Land Grabbing Act and when such dispute is pending before the competent tribunal or Court, filing a complaint is nothing but conversion of civil proceedings into criminal proceedings, for the reason that having found no chance of succeeding in the civil proceedings. When such conversion is made from civil to criminal, it amounts to abuse of process of the Court and therefore, the proceedings are liable to be quashed by exercising inherent power by the High Court under Section 482 Cr.P.C. Undisputedly, the LGC proceedings are initiated and pending before the Land Grabbing Court and only after initiation of proceedings under Land Grabbing Act, Smt. Pushpa Bai filed counter disclosing publication of a notice in the newspaper about forgery of her signature by impersonation on the document. The allegation in counter of Smt. Pushpa Bai and said notification gave rise to a cause of action for filing complaint to the 2nd respondent and on the strength of counter and alleged notice, published in the paper, the complaint was filed by the 2nd respondent, despite pendency of LGC proceedings.

Learned counsel for the 2nd respondent contended that pendency of civil proceedings is not a ground to quash the proceedings and thereby, filing of present complaint before the Judicial Magistrate of First Class in C.C.No.3023 of 2013 for various offences does not amount to conversion of civil proceedings into criminal proceedings, giving cloak to criminal proceedings and it does not amount to abuse of process of the Court.

Learned Senior Counsel appearing for the petitioner in support of his contention would contend that when civil proceedings are converted into criminal proceedings, the Court can quash the proceedings and the learned counsel drawn attention of this Court to the judgment of the Supreme Court in **Sagar Suri[3], Thermax Limited[8]** cases.

In view of the law declared by the Apex Court, the civil proceedings cannot be converted into criminal proceedings and it amounts to abuse of process of the Court, but the facts are totally different in these two cases. The dispute between the parties, if predominantly is of civil or criminal nature, the civil proceedings or criminal proceedings can be prosecuted. It depends upon the nature of dispute between the parties. Under Land Grabbing Act, the Court can take cognizance of Land Grabbing and pass necessary orders under Section 7 & 8 of Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (for short 'Land Grabbing Act' and it is as follows:

Section 7A - Special Tribunals and its powers, etc.

"(4) Every finding of the Special Tribunal with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing, and of the persons who committed such land grabbing and every Judgment of the Special Tribunal with regard to the determination of the title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land :

Provided that the Special Tribunal shall by notification specify the fact of taking cognizance of the case under this Act. Such notification shall state that any objection which may be received by the Special Tribunal from any person including the custodian of evacuee property within the period specified therein will be considered by it :

Provided further that where the custodian of evacuee property objects to the Special Tribunal taking cognizance of the case, the Special Tribunal shall not proceed further with the case in regard to such property :

Provided also that the Special Tribunal shall cause a notice of taking cognizance of the case under the Act served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.

(2-B) Notwithstanding anything in the Code of Criminal Procedure,1973, it shall be lawful for the Special Court to try all offences punishable under this Act.

(2-C) The Special Court shall determine the order in which the civil and criminal liability against a land grabber be initiated. It shall be within the discretion of the Special Court whether or not to deliver its decision or order until both civil and criminal proceedings are completed. The evidence admitted during the criminal proceeding may be made use of while trying the civil liability. But additional evidence, if any, adduced in the civil proceedings shall not be considered by the Special Court while determining the criminal liability. Any person accused of land grabbing or the abetment thereof before the Special Court shall be a competent witness for the defence and may give evidence or oath in disproof of the charge made against him or any person charged together with him in the criminal proceeding:

Provided that he shall not be called as a witness except on his own request in writing or his failure to give evidence shall be made the subject of any comment by any of the parties or the Special Court or give rise to any presumption against himself or any person charged together with him at the same proceeding.

(6) Every finding of the Special Court with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing and of the persons who committed such land grabbing, and every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land.[6][x x].

[7][Provided that the Special Court shall, by notification, specify the fact of taking, cognizance of the case under this Act. Such notification, shall state that any objection which may be received by the Special Court from any person including the custodian of evacuee property within the period specified therein will be considered by it :

Provided further that where the custodian of evacuee property objects to the Special Court taking cognizance of the case, the Special Court shall not proceed further with the case in regard to such property;

Provided also that the Special Court shall cause a notice of taking cognizance of the case under the Act, served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land."

If, any offence is committed, the Court can initiate criminal proceedings and prosecute the person guilty of land grabbing. However, this issue will be decided at later stage.

In civil proceedings, the Court can pass appropriate orders granting civil remedies and the question of prosecuting the accused and imposing sentence against the accused in civil proceedings does not arise and only Criminal Court is competent to punish the accused who committed any offence of forgery etc., by imposing appropriate sentence. Therefore, both civil and criminal proceedings are distinct and different and when the dispute is of both civil and criminal in nature, the parties can prosecute the proceedings either in civil or criminal courts or both, in view of the limited powers of the Court under C.P.C and Cr.P.C. Therefore, when the petitioner allegedly committed an offence, the proceedings in a Criminal Court cannot be quashed on the ground that civil proceedings were given a criminal colour. In any view of the matter, while deciding a petition under Section 482 Cr.P.C, as discussed in **Sagar Suri**[3] and **Umesh Kumar**[5] cases, the Court has to scrutinize the entire material and arrive at a conclusion whether those allegations made in the complaint would constitute an offence punishable under Sections 419, 420, 468, 471 & 465 of IPC.

Turning to the facts of the present case, the petitioner allegedly committed an offence punishable under Section 419 IPC. Section 419 IPC deals with punishment for cheating by personation and whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 420 deals with cheating and dishonestly inducing delivery of property. To punish an offender under Section 420 of I.P.C, there must be cheating and dishonest inductment for delivery of property. The word 'cheating' is defined under Section 415 I.P.C as "whoever by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"". The explanation annexed to Section 415 I.P.C further says that a dishonest concealment of facts is a deception within the meaning of Section 415 I.P.C.

Here, the allegation is that the signatures of Smt. Pushpa Bai were forged and brought into existence a registered document by the petitioner/accused vide Doc.No.3482/93 dated 24.11.1992 by impersonating Smt. Pushpa Bai. The punishment prescribed for the said offence may extend to three years, or with fine, or with both and the said offence is a compoundable offence by the person cheated with the permission of the Court.

In LGC No.41 of 2010, Smt. Pushpa Bai contended that the petitioner/accused has created fraudulent document resorting to impersonation and forging her signatures and she had caused a paper publication in daily newspaper before initiating LGC proceedings, but not during pendency of LGC proceedings. Smt. Pushpa Bai filed counter in LGC 41 of 2010 stating that her signature is forged and she came to know that her signature is forged and documents are created by the petitioner represented by its Manager Mr. Rama Raju by bringing into existence a sale deed bearing Doc.No.3482/93 dated 24.11.1992, which Smt. Pushpa Bai never executed and got issued legal notice dated 04.09.1993 to the petitioner complaining that the document was created by impersonation and forgery and they are sham and nominal. Thus, in view of the publication in Deccan Chronicle daily newspaper and the allegations made in the counter in LGC No.41 of 2010, about impersonation, forgery of signature of Smt. Pushpa Bai, the second respondent filed the complaint. Smt. Pushpa Bai contended that the petitioner cheated her by impersonation and forged her signature and created documents, the person who is cheated or impersonated is competent to file complaint for the offence punishable under Section 419 IPC. But, here, the 2nd respondent was not the person impersonated. But, Smt. Pushpa Bai was impersonated. The 2nd respondent/complainant is not competent to initiate proceedings against the petitioner for the offence punishable under Section 419 IPC, though, the allegations would constitute an offence, by filing a private complaint, though the allegations on the face value would constitute an offence. On this ground alone, the proceedings against the petitioner for the offence punishable under Section 419 IPC are liable to be quashed.

The other offence allegedly committed by the petitioner is Section 420 IPC i.e. cheating and dishonestly inducing delivery of property.

Section 420 of I.P.C. deals with punishment for cheating and dishonestly inducing delivery of property. Cheating is defined under Section 415 of I.P.C and it is as follows:

> **"415. Cheating:-** Whoever by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

The essential ingredients to constitute the offence of cheating are:

(i) There should be fraudulent or dishonest inducement of a person by deceiving him;

(ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) The person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) In cases covered by (ii) (b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

In ***V.Y.Jose v. State of Gujarat***[18] the Apex Court laid down following ingredients to constitute cheating.

> "An offence of cheating cannot be said to have been made out unless the following ingredients are satisfied:
>
> (i) deception of a person either by making a false or misleading representation or by other action or omission;
>
> (ii) fraudulently or dishonestly inducing any person to deliver any property; or
>
> (iii) To consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.
>
> For the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the

---
[18] (2009) 3 SCC 78

part of the accused to keep his promise, in absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Indian Penal Code can be said to have been made out.

An offence of cheating may consist of two classes of cases:

(1) where the complainant has been induced fraudulently or dishonestly. Such is not the case here;

(2) When by reason of such deception, the complainant has not done or omitted to do anything which he would not do or omit to do if he was not deceived or induced by the accused."

Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed.

In **Hridaya Ranjan Prasad Verma v. State of Bihar**[19] the Apex Court held as follows:

"In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time to inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise."

Learned Senior Counsel appearing for the petitioner while contending that the allegations made in the complaint would not constitute an offence punishable under Sections 419 & 420 IPC, drawn attention of this Court to the two judgments of the Apex Court

---

[19] (2000) 4 SCC 168

in **Mohammed Ibrahim[7]** and **International Advanced Centre for Powder Metallurgy and New Materials (ARCI)[4]** cases.

In **Mohammed Ibrahim[7]** case, the Supreme Court held as follows:

> 13. The essential ingredients of the offence of "cheating" are as follows: (i) deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission; (ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived; and (iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property. To constitute an offence under section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived (i) to deliver any property to any person, or
>
> (ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

Similarly, in **International Advanced Centre for Powder Metallurgy and New Materials (ARCI)[4]** case, the Supreme Court held as follows:

> "13. To constitute an offence of cheating, the essential ingredients to attract Section 420 Indian Penal Code are: (i) cheating; (ii) dishonest inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or signed or is capable of being converted into a valuable security and (iii) mens rea of the accused at the time of making the inducement. The making of a false representation is one of the essential ingredients to constitute the offence of cheating Under Section 420 Indian Penal Code. In order to bring a case for the offence of cheating, it is not merely sufficient to prove that a false representation had been made, but, it is further necessary to prove that the representation was false to the knowledge of the accused and was made in order to deceive the complainant.

Learned Senior Counsel appearing for the petitioner would contend that the complaint must disclose the ingredients of Section 420 IPC, which are referred above. Here, the allegation against the petitioner is that, by deception, a person made a false and misleading representation or by disclosed concealment of act or omission made by Pushpa Bai to deliver the property. But here, delivery of property and making or altering or destroying whole or in part of the valuable security does not arise. At best, even if the allegations made in the complaint on its face value are accepted in its entirety, the petitioner fabricated a document by impersonation and made Smt. Pushpa Bai to deliver the property. In such a case, the aggrieved person is only Smt. Pushpa Bai, but not the 2nd respondent/complainant, as the 2nd respondent was not made to deliver any property by inducement with dishonest intention to part with any property or alter or destroy whole or in part valuable security. Therefore, it is difficult to hold that the 2nd respondent is the person aggrieved to file a complaint against the petitioner for the offence punishable under Section 420 IPC. Hence, I find that the 2nd respondent has no *locus standi* to file a private complaint for the offence punishable under Section 420 IPC. On this ground, the proceedings in C.C.No.3023 of 2013 for the offence punishable under Section 420 IPC are liable to be quashed.

The other offence allegedly committed by the petitioner is punishable under Section 468 IPC i.e. forgery for purpose of cheating. To constitute an offence punishable under Section 468 IPC, it must consist of two limbs. i.e. forgery and cheating. 'Forgery' is defined as whoever makes any false document or false electronic record or part of a document, or electronic record with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause by person to apart with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

In **Sushil Suri v. Central Bureau of Investigation**[20], the Supreme Court discussed about the basic elements that constitute forgery as:

(1) the making of a false document or part of it and
(2) such making should be with such intention as is specified in the section
   a. to cause damage or infringe to
      i. the public, or
      ii. any person, or
   b. to support any claim or title; or
   c. to cause any person to part with property, or
   d. to cause any person to enter into an express or implied contract; or
   e. to commit fraud or that fraud may be committed

Unless the above ingredients are satisfied, the complaint for the offence punishable under Section 468 IPC cannot be proceeded. But here, the allegation made against the petitioner is that by impersonation, the petitioner got registered sale deed bearing Doc.No.3482/93 dated 24.11.1992, by forging the signatures of Smt. Pushpa Bai in the year 1992. But, by the date of alleged forged document brought into existence by impersonation, the 2nd respondent already purchased the property long back in the year 1966 under Document No.14 of 1966 dated 17.01.1966 and Document No.797/66 dated 18.08.1966. Such creation of document by the petitioner is only to support the claim or title to immovable property, so as to defeat the rights of the 2nd respondent. Thus, the

[20] AIR 2011 SC 1713

allegations made in the complaint would attract an offence punishable under Section 468 IPC *prima facie*.

The petitioner also allegedly committed an offence punishable under Section 471 IPC, i.e. using as genuine a forged document or electronic record. As discussed above, the allegations made in the complaint would constitute an offence punishable under Section 468 IPC and the petitioner used the said document to claim title over the property, as if it is a genuine document to defend the case in LGC No.41 of 2010. In such a case, whether a document is forged or not is a question of fact and if, for any reason, the document is found to be forged, using the same as genuine to defend the claim of the 2nd respondent in LGC No.41 of 2010, would *prima facie* attract an offence punishable under Section 471 IPC. Therefore, the 2nd respondent can maintain a complaint for the offence punishable under Section 471 IPC against the petitioner and the allegations made in the complaint on its face value, accepting in its entirety would constitute an offence punishable under Section 471 IPC *prima facie*. Hence, the proceedings against the petitioner in C.C.No.3023 of 2013 for the offence punishable under Section 471 IPC cannot be quashed.

The other offence allegedly committed by the petitioner is forgery. I have already discussed about 'forgery of a document' and forgery of alleged signatures of Smt. Pushpa Bai, is purely a question of fact. In view of my foregoing discussion in the earlier paragraphs, the proceedings in C.C.No.3023 of 2013 for the offence punishable under Section 465 IPC cannot be quashed.

In **Bhajan Lal**[12] case the Apex Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

Thus, in view of guideline no.1 of **Bhajan Lal**[12] case, if the allegations made in the complaint would attract a specific offence, the Court cannot quash the proceedings. The 2nd respondent allegedly became the owner of the property by the date of allegedly forging the signatures of Smt. Pushpa Bai by impersonation to claim title to the property. In such case, the 2nd respondent is the person aggrieved and therefore, he is competent to file a complaint against the person who forged the document for the purpose of cheating. On an overall consideration of the entire allegations made in the complaint, I find *prima facie*, material against the petitioner to proceed against him for the offence punishable under Section 468 IPC by the 2nd respondent. Therefore, the proceedings against the petitioner for the offence punishable under Section 468 IPC cannot be quashed in C.C.No.3023 of 2013.

One of the contentions raised by the learned Senior Counsel appearing for the petitioner is that, the 2nd respondent filed LGC No.41 of 2010 and even creation of a false document would constitute 'Land Grabbing' as defined under Section 2(e) of Land Grabbing Act. When LGC proceedings are pending before the Land Grabbing Court, if the Court found that the petitioner has created document by forgery and by impersonation of Smt. Pushpa Bai, it is an offence punishable under the provisions of Land Grabbing Act and the 2nd respondent can proceed against the petitioner under the provisions of Land Grabbing Act. Learned Senior Counsel appearing for the petitioner placed reliance on two judgments of the Apex Court in **Mahalaxmi Motors Ltd[2] and Prameela Modi (Smt.) and others[9]** cases.

In **Prameela Modi[9]** case, the Apex Court held that the findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings and by holding that the High Court in exercise of its power under Article 226 of the Constitution of India cannot convert itself into a Court of Appeal and indulge in re-appreciation or evaluation of the evidence. When the Land Grabbing Tribunal gives a finding as to the commission of forgery, fraud, etc, the Criminal Court cannot take cognizance of an offence to re-appreciate or re-evaluate the evidence to come to a different conclusion. When the Land Grabbing or Special Court or a Tribunal is not Inferior Court to the Judicial I Class Magistrate Court, i.e. a Court constituted under the provisions of A.P. Land Grabbing Prohibition Act, whereas, the Magistrate Court is constituted under the provisions of Cr.P.C to try the offence punishable under IPC or any other penal law, subject to the jurisdiction conferred on it. Therefore, the proceedings before Land Grabbing Court and Criminal Court are mutually exclusive. In the facts of the above judgment, after the Land Grabbing Court under the Act recorded a fact finding, but the same is challenged in writ petition, the Court held that while exercising writ jurisdiction, the High Court can re-appreciate or re-evaluate the evidence to come to an independent conclusion, than finding recorded by Special Court or Inferior Court, based on facts. Therefore, the principle laid down in the above judgment will have no bearing to the present facts of the case.

In **Konda Lakshmana Bapuji v. Govt. of A.P.**[21], the Apex Court applied both the broader and narrow meanings of the expression 'land grabbing' and held that it would not, however, mean that all the tests laid down therein are required to be satisfied in their letter and spirit. What is necessary to be proved is the substance of the allegation. The proof of intention on the part of a person being his state of mind, the ingredients of the provisions must be considered keeping in view the materials on record as also circumstances attending thereto.

The expression 'land grabbing' is defined under Section 2(e) of A.P. Land Grabbing (Prohibition) Act, 1982, as "land grabbing" means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and license agreements or any other illegal agreements in respect of such lands, or to construct

[21] (2002) 3 SCC 258

unauthorized structures thereon for sale or hire, or give such lands to any person on rental or lease and license basis for construction, or use and occupation.

Thus, in view of the wider definition of 'land grabbing', a person who created false documents to claim right over the property, the act of creation of documents to claim right over the property would also constitute land grabbing and it is an offence punishable under the provisions of the Act. But, the petitioner allegedly committed various offences referred supra, including the offences punishable under Sections 465 IPC. In those circumstances, the remedies under Land Grabbing Act are totally different from the remedies in a Criminal Court under the provisions of IPC. The penalties prescribed in Indian Penal Code are heavier than the penalties prescribed under the Land Grabbing Act for the alleged offences and in such case, the 2nd respondent cannot be denied an opportunity to prosecute the accused who allegedly committed the offences punishable under the Indian Penal Code, as it amounts to denial of justice. Therefore, I find no substance in the contention of the learned Senior Counsel appearing for the petitioner that as long as the proceedings in Land Grabbing Court are pending, the 2nd respondent cannot prosecute the petitioner is devoid of merit, since the 2nd respondent cannot be made to wait till termination of the proceedings before the Land Grabbing Court.

In view of the principles laid down in catena of decisions referred above, this Court can exercise its inherent jurisdiction only in certain circumstances specified in **Bhajan Lal**[12] case, more particularly, to give effect to the orders passed under the Court or to prevent abuse of process of the Court or to meet the ends of justice. Here, the contention of the learned Senior Counsel appearing for the petitioner is that filing complaint during pendency of LGC proceedings is abuse of process of the Court. While deciding an application under Section 482 Cr.P.C, the jurisdiction of this Court is limited and the Court is not even required to take into consideration the defense of the respondent to scrutinize the material on record including the averments in the complaint and find out whether those allegations on its face value, accepting in its entirety would constitute any offence or whether those proceedings were initiated due to ill-will to wreck vengeance by abuse of process of the Court. Here, it is the case of the 2nd respondent that he purchased the property long back prior to the alleged forged document which was impersonated by the petitioner. The 2nd respondent came to know about the alleged forgery only when Smt. Pushpa Bai filed her counter in LGC No.41 of 2010, but not prior thereto. In such a case, on the ground of delay, the proceedings cannot be quashed. Moreover, the 2nd respondent is the aggrieved person for the offences and he can maintain the complaint and it does not amount to abuse of process of the Court. The allegation that the petitioner forged the signatures of Smt. Pushpa Bai is purely a question of fact and this Court, at this stage, cannot quash the proceedings as the alleged forgery is a mixed question of fact required to be established by adducing evidence during trial. In any view of the matter, as I discussed about the *locus standi* of the 2nd respondent and how he is an aggrieved person for the certain offences allegedly committed and found that the 2nd respondent is not an aggrieved and incompetent person to lodge complaint. However, the 2nd respondent is the person aggrieved and competent to prosecute the proceedings against the petitioner.

Therefore, on overall consideration of entire material on record, I find that the entire allegations made in the complaint on its face value, accepting in its entirety would constitute an offence punishable under Sections 468, 471 & 465 IPC *prima facie.* Hence, I find no ground to quash the entire proceedings in C.C.No.3023 of 2013 pending on the file of XIX Metropolitan Magistrate, Kukatpally, while quashing the proceedings against the petitioner for the offences punishable under Sections 419 & 420 IPC.

In the result, the criminal petition is allowed-in-part, quashing the proceedings against the petitioner for the offences punishable under Sections 419 & 420 IPC while declining to quash the proceedings against the petitioner for the offences punishable under Sections 468, 471 & 465 IPC in C.C.No.3023 of 2013 pending on the file of XIX Metropolitan Magistrate, Kukatpally.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Dated:28.04.2017

SP