

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition Nos.7073 and 7074 of 2017

COMMON ORDER

The petitioners respectively are A.1 of Cr.No.255 of 2017 and A.6 of Cr.No.269 of 2017 of I Town Police Station, Anantapur. The respective defacto-complainants/ 2nd respondents are by names N.Lakshminarasimha Reddy and K.C.Manohar. The Cr.No.255 of 2017, dt.14.06.2017 registered is for the offences u/sec.167,168 and 506 r/w 109 IPC, and Cr.No.269 dt.20.06.2017 is for the offences punishable u/ sec.417,420,465 and 468 r/w 34IPC.

So far as Cr.No.255 of 2017 covered by quash petition CrI.P.No.7073 of 2017 registered on the report of N.Lakshminarasimha Reddy, against the petitioner/ A.1- Devanand is concerned, his report, dt.16.05.2017 given to the DGP, A.P., is forwarded to the Superintendent of Police(the SP) with endorsement for enquiry to the SP and furnish enquiry report and the enquiry report consequent therefrom dt.12.06.2017 of Addl. Superintendent of Police, Anantapur, to the Superintendent of Police, Anantapur in requesting to register the crime for the offences supra against the petitioner/ A.1-Devanand and one Sudhakar Naidu, to investigate concerned.

The report of the defacto-complainant dt.16.05.2017 supra reads that on 21.07.2016, he obtained sale agreement-cum-GPA for Ac.8.84cents in S.No.446 from Bogisetty Basavaprabhu, Bogisetty Mahabaleshwar, Bogisetty Basavaprakash and Bogisetty Hariharan and a month ago, Devanand-A.1 of Madakasira and K.Sudhakar Naidu, resident of Anantapur doing liquor business, came rudely to the land supra and created panic saying the land belongs to them and they can do away with him, else to keep him in remand and they through JCB uprooted some of the trees, and when he questioned them, they abused him saying he is no way concerned

with the land and threatened saying that K.Sudhakar Naidu purchased from Devanand-A.1 the land in question. In fact, Devanand-A.1 has no right over the property and the report of the Collector and the passbooks obtained by Bogisetty Basavaprabhu, discloses the same fact. Hence to take action.

The question of conducting enquiry and submitting a report on a report given by any victim to the police, does not arise for nothing contemplated but for if at all against the public servant therefrom for any departmental action if required. It is also clear from the expression of the Constitution Bench of the Apex Court in Lalith Kumari Vs. Govt. of UP¹, the pre-registration enquiry contemplated is only with regard to the authenticity of the facts in the report given to police for the action discloses cognizable offence and not otherwise and without registration of crime, the question of investigation does not arise equally any enquiry but for to the limited purpose from the expression supra that too after making entry in General Diary and that too only in limited type of cases and not even the case like on hand.

Now from the very report registered as First Information Report, it makes out the offences u/ sec. 167, 168 and 506IPC or not is a main question.

Heard rival contentions and perused the contents of the FIR referred supra and quash petition averments impugning the same, what the report of N.Lakshminarasimha Reddy dt. 16.05.2017 addressed to the DGP speaks is no doubt making out offences of criminal intimidation and trespass if not so far as the offences u/ sec. 167 IPC what it speaks "*Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to*

¹ (2014) 2 SCC 1

cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished” and Section 168 IPC speaks is ” Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished”.

What the report of defacto-complainant-N.Lakshmi narasimha Reddy speaks is he obtained GPA-cum-sale agreement, dt. 21.07.2016 from Bhogisetty Basavaprabhu and others. A month ago Dayanand-A.1/ Inspector of Madakasira and K.Sudhakar Naidu, liquor trader of Anantapur, came to his field claiming as of them and uprooted existing trees through JCB for his questioning by threatened saying he has no concern with the land and it belongs to A.1-Devanand and Sudhakar Naidu purchased the land from him(A.1) and further speaks earlier Bogisetty Basavaprabhu, applied for pattadar passbook to the Collector and the Collector in the proceedings by enquiry through RDO and Tahasildar held that said Devanand-A.1 has no right over the property. It further speaks of SP issued proceedings u/ sec.145CrPC and Devanand-A.1 is kept in vacancy reserve. In fact, date of the alleged trespass and mischief not even mentioned but for saying a month back. It is not even stated earlier and written report given to the police but for saying only that he met the SP immediately thereafter and the SP cause issued section 145CrPC proceedings and kept Devanand-A.1 in vacancy reserve.

Once such is the case, of the occurrence reported to SP, the crime registered based on the said belated report of one month later no way survives much less for the offences u/ sec.167 and 168 or even for the offence u/ sec.506IPC. The offence u/ sec.506 IPC is further a non-cognizable and equally the offence u/ sec.168IPC. Thus the proceedings in Cr.No.255 of 2017 are quashed.

Crl.P.No.7074 of 2010

The contents of the FIR No.269 of 2017 dt.20.06.2017 addressed by the defacto-complainant supra by name K.C.Manohar along with one Manjunath jointly to the SP Anantapur, reads that they are the only legal heirs of late K.Deveeramma, D/o.late Bhogisetty Akkanagamma. The property of Ac.8-84cents in Sy.No.446 of Anantapur Sub Registry was inherited by Bhogisetty Akkanagamma and she died on 27.04.1978 at Kothacheruvu leaving behind two daughters by names B.Ambamma and B.Deveeramma and of whom Ambamma died leaving behind her only daughter Sankaramma who also died issueless and for Deveeramma died leaving behind three sons Viz; vishwanathappa since died left behind three sons by names K.C.Manohar(the complainant herein) and K.Nataraj and K.Mallikarjuna (died) and 2) K.Basavarajappa (died) and 3) K.Rajasekhar (died) and 5 daughters by names 1)Meenakshmma(died), 2)Kamalamma (died), 3)Vimalamma(died), 4) Lalithamma(died) who is the mother of V.Manjunath(another complainant) and 5) Kalyanamma. It is thereby their family members are in possession and enjoyment of the property. Recently they came to know that the GPA was executed for the property by persons claiming to be Leal heirs of Akkanagamma viz; B.Basavaprabhu etc, in favour of G.Jayappa and L.Lakshminarasimha Reddy on 21.07.2016 and one Shyamaraj, claiming as related to Akkanagamma, though not related, appears to have executed gift deed in favour of his son John Stephen in 2006 and John Stephen executed GPA to Devanand-A.6 and same has been transferred to others by Devanand-A.6 and the said property is very near to the Collectorate, Anantapur Town and valuable one and it is intended to be knocked away by creating fictitious and fabricated documents without any right or title and to deprive legitimate heirs of the B.Akkanagamma and VRO Anantapur Urban also colluded with them and there is every possibility

of the GPA holders to execute and alienate property creating 3rd party rights and they are trying to make hectic efforts without any right to alienate and thereby to take action.

The GPA was executed in favour of Devanand by John Stephen S/o Shyamraj, who is in abroad to deal with the property on his behalf as GPA holder and the schedule mentioned extent is Ac.8-84cents in Sy.No.446 of Anantapur Town. If at all any person to be prosecuted is John Stephen and so far as the petitioner-Devanand concerned as A.6 of the above crime registered against him, he is authorized by John Stephen by execution of GPA to deal with the property in referring the source of title of John Stephen S/o Shyamraj as donor, of the registered gift/ settlement bearing No.12/ 1958,dt.05.08.1958 and Tahasildar also issued pattadar passbook in favour of ShyamRaj wayback in 1959 for the self-same property and thereby the dispute is purely of civil in nature and a criminal flavour is added to it and the continuation of the proceedings against the petitioner-A.6 for the offences punishable u/ sec.417, 420,465,468 r/w 34IPC for nothing made out from registration of the FIR to continue and thus liable to be quashed to subserve the ends of justice.

Having regard to the above and in the result, both the Criminal Petitions are allowed by quashing the proceedings in both the respective crimes vide Cr.No.255 and 269 of 2017 on the file of the I Town Police Station, Anantapur against the self-same petitioner-Devanand(as A.1 and A.6 respectively) in both the Criminal petitions. He is acquitted and his bail bonds shall stand cancelled. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:27.10.2017
vvr