

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7556 of 2010

ORDER :

Heard learned counsel for the petitioners 1 to 5/ A1 to A5 in Crime No.64 of 2010 of Narasaraopet I Town Police Station, Guntur District, which is outcome of the private complaint of 11 complainants dated 22.03.2010 that was referred to police under Section 156(3) Cr.P.C. by the learned Additional Judicial First Class Magistrate, Narasaraopet, under Sections 144, 423, 420 and 120(B) r/w 34 I.P.C, learned counsel for the respondents 2 to 12/ *de facto* complainants and learned Public Prosecutor representing the State/ 1st respondent and perused the contents of the private complaint registered as F.I.R. and the grounds urged in the quash petition and also the additional material filed in the course of hearing by learned counsel for the *de facto* complainants.

From the very complaint, it is the allegation that in February, 2010, two sale deeds in the name of A1 to A4 registered by A5 attested by A6 and A7 and it is the say that that the property already sold under different sale deeds by the father-in-law of A5 by name, R.Narasimha Rao, the

original owner, in different dates right from 1970 to 1980 respectively and the sale deeds of February, 2010 were created with dishonest intention by cheating and all the accused are parties to the unlawful assembly.

So far as the contentions in the grounds urged in the quash petition are that from perusal of the material even the so called earlier sales of 1970-80 respectively by the original owner, R.Narasimha Rao, father-in-law of A5-R.Rajyalakshmi concerned, not even mentioning about a specific extent with boundaries but of only some portion by counting in portions(half or 20%or 10%as the case may be) and it is, if at all undivided interest, what is sold and what is remained is even a matter of civil dispute and the proceedings are liable to be quashed.

In fact, a perusal of the F.I.R. from the contents of the private complaint mainly exhibiting the grievance of offence of cheating and breach of trust in creating sale deed of the properties already sold earlier by the predecessor in title by A5 to the third parties, who are some among the vendees to vendees of the respective 11 complainants.

In fact, the expression of the Apex Court in Mohammed Ibrahim v. State of Bihar¹, clearly speaks the vendee, in the absence of showing cogent material cannot be liable for the offence of cheating from any sale deed executed by vendor along with vendee. Apart from it, the three Judge Bench expression of the Apex Court in M.L.Abdul Jabbar Sahib v. H.Venkata Sastri and Sons and Others² categorically held that mere attestation cannot attribute knowledge of the contents of the document in the absence of a cogent material showing and attributing knowledge. In this regard concerned, from the said private complaint referred to police for investigation, but for, stray allegations, there is no cogent material to say A1 to A4 are not the bonafide purchasers or they are privy with A5 in creating document, much less, by attestation of A6 and A7.

Having regard to the above, the Criminal petition is allowed-in-part, quashing the proceedings insofar as A1 to A4, A6 and A7, by retaining the proceedings only against A5, with observation that the crime is of the year 2010, the police shall complete the investigation early at any cost within three months from the date of receipt of copy of this

¹ 2009(8) SCC 751

² AIR 1969 SC 1147

order and in the meantime, pending investigation, not to arrest petitioner No.5/ A5. However, that does not prevent securing the presence of A5 for the purpose of investigation. The additional material filed by the complainants' can be submitted to the investigating officer as part of investigation to the so called genuineness of the sales made by the petitioner No.5/ A5's father-in-law, in question, concerned.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Date:24-08-2017

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Dr. B. SIVA SANKARA RAO, J



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