

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.34308 of 2015

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking issuance of a Writ of Mandamus declaring the action of the 3rd respondent in registering a case in crime No.174 of 2015 against the petitioners for the offences punishable under Sections 465, 468, 471 and 420 of Indian Penal Code as illegal and arbitrary.

Heard both sides.

The averments made in the affidavit filed in support of the Writ Petition would show that on 04.04.2015, the 4th respondent herein submitted a complaint before the 3rd respondent stating that the petitioners herein in collusion with officials of Registration department have created certain documents by showing the extent of the property as Acs.22.22 cents in survey No.57/3 though originally the extent of said property is only Acs.2.90 cents. Basing on the said complaint, the 3rd respondent registered the above said crime. It is the grievance of the petitioners that without establishing any right over the property, the 4th respondent lodged a report and basing on the same the 3rd respondent registered the crime, which according to the petitioners is illegal. It is further averred that without therebeing any preliminary enquiry, the respondent-Police have registered the crime and the same is arbitrary.

On 13.10.2015, while admitting the Writ Petition, this Court granted interim stay of arrest of the petitioners. However, directed

that the investigation to go on. Seeking to vacate the said order, respondent Nos.1 to 3 filed WVMP No.4926 of 2015 along with a counter affidavit stating that the petitioners herein in collusion with the staff of Sub-Registrar Office, Dwarakanagar, have falsely created four documents and got registered the same vide document dated 23.02.2015 bearing Nos.643, 644, 645 and 646 of 2015 by virtue of GPA bearing document Nos.2639/3 and 2640/63 dated 30.03.1963. It is further stated that by showing less extent of lands in the sale deeds, the petitioners have undervalued the property and paid deficit stamp duty, thereby causing loss to the public exchequer. Hence, prayed for dismissal of the writ petition.

A perusal of the allegations made in the FIR would show that the petitioners herein in connivance with the officials of Sub-Registrar Office, created fake and false GPAs in respect of the land belonging to the complainant Company and also created four documents purporting to be GPAs and fraudulently got registered the same. It is specifically alleged in the report that the petitioners have fraudulently created GPAs and registered the same by undervaluing the property and paying deficit stamp duty thereby causing loss to the public exchequer. It is also averred that under the guise of forged and fake documents, the petitioners are trying to grab the land of the informant. It is also alleged that the petitioners have mischievously made wrong entries in the government documents and registers. When the said facts came to the knowledge of the informant company, the petitioners started threatening the staff of the Company with dire consequences and also tried to criminally trespass into the property.

Having regard to the nature of allegations made, this Court is of the view that the matter requires investigation and the proceedings cannot be quashed at this stage. Since the allegations in the FIR, would *prima facie* establish that these petitioners have created documents and also executed the sale deeds in the name of the petitioners by creating GPA and as the matter requires investigation, this Court is of the view that it is not a fit case for quashing the F.I.R.

Hence, the Writ Petition is dismissed.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No costs.

09.03.2017
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JUSTICE C. PRAVEEN KUMAR

