

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition Nos.11425 & 11198 of 2017

COMMON ORDER:

Since the facts of the case, issues involved and the petitioners in both these Criminal Petitions are the accused in the same crime, both these Criminal Petitions are being disposed of by this common order.

2. Criminal Petition No.11425 of 2017 is filed by petitioner/accused No.2 and Criminal Petition No.11198 of 2017 is filed by petitioner/accused No.3, under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail in the event of their arrest in Crime No.137 of 2017 on the file of the Adibhatla Police Station, Rachakonda Commissionerate, registered for the offences punishable under Sections 403, 423, 463, 465, 467, 468, 470, 471, 474 of I.P.C. and Section 156(3) of Cr.P.C.

2. Heard the learned counsel for the petitioners/accused Nos.2 and 3, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioners/accused Nos.2 and 3 would submit that the petitioners/accused Nos.2 and 3 are innocent persons and falsely implicated in this case. They are not aware of their father executing General Power of Attorney in favour of their sister, vide document No.8175 of 2015, dated 28.11.2015. If any remedy is available to the de-facto

complainant, he has to agitate the same before the competent civil Court and ultimately prayed to allow both the applications.

4. On the other hand, the learned Additional Public Prosecutor opposed for grant of bail to the petitioners/accused Nos.2 and 3.

5. The material on record reveals that accused No.1 gifted the plot in favour of his daughter A.Varalakshmi (sister of the petitioners herein), vide document No.8175 of 2015, dated 28.11.2015. Thereafter, accused No.1 again gifted the same property in favour of his sons, who are petitioners/accused Nos.2 and 3, vide registered document No.2832 of 2017, dated 04.03.2017. A.Varalakshmi (sister of the petitioners/accused Nos.2 and 3) sold the subject plot to one N.Jangaiah and the said Jangaiah, in turn, sold and registered the subject plot in favour of the de-facto complainant, vide registered document No.1520 of 2017, dated 20.04.2017.

6. It is contended that the petitioners/accused Nos.2 and 3 are not aware of their father gifting and registering the subject plot in favour of their sister A.Varalakshmi. The said contention is unacceptable in view of the relation between the parties. Once a property is gifted under a valid and registered document, the executant/s of the document loses title to that property. Executing another document in respect of the same property certainly attracts penal action; and, knowingly entering into such transaction would also attract penal action. Therefore, it cannot be said that there is no *prima facie* case against the petitioners/accused Nos.2 and 3. It is not at all a fit case to

allow both these applications under Section 438 of Cr.P.C. Both these applications are devoid of merit and are liable to be dismissed.

7. Accordingly, both the Criminal Petitions are dismissed.

Miscellaneous petitions, if any, pending in both these Criminal Petitions, shall stand closed.

Dr. SHAMEEM AKTHER, J

30th November, 2017
Bvv

