

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10045 OF 2017

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioners-A.1 to A.3 seeking to quash the F.I.R. in Crime No.75 of 2017 of Machilipatnam Town Police Station, Krishna District, registered for the offences under Sections 420 and 506 I.P.C. r/w Section 34 I.P.C.

2. Heard Sri P. Nagendra Reddy, learned counsel for the petitioners, and the learned Additional Public Prosecutor appearing for the respondent-State, apart from perusing the material available on record.

3. Learned counsel for the petitioners-A.1 to A.3 would submit that it is alleged in the report that the *de facto* complainant is the owner of the subject property; A.1 voluntarily requested the *de facto* complainant to act as an attester to the registered documents and took her to the Sub-Registrar's Office and obtained sale deeds, as if she sold the subject property in favour of accused Nos.1 to 4 under four separate sale deeds; it is submitted that the *de facto* complainant after receiving sale consideration voluntarily came to the Sub-Registrar's Office, executed registered sale deeds; she acknowledged the receipt of the sale consideration before the Sub-Registrar and voluntarily executed sale deeds; thereafter, at the instance of Nidumulu Poornachandra Raju, who said to have obtained a Will deed in respect of sold properties, instigated the *de facto* complainant to lodge a false report; when the said Nidumulu Poornachandra Raju interfered with the peaceful possession and enjoyment of the accused, the petitioner-A.2 filed O.S. No.268 of 2017 before the Principal Senior Civil Judge, Machilipatnam, for grant of permanent injunction; after receiving summons in the above suit, the

present report was lodged against the petitioners-accused; the dispute between the parties is in civil nature; there is nothing to proceed with the criminal case; and ultimately, prayed to quash the criminal proceedings against the petitioners-A.1 to A.3.

4. On the other hand, learned Public Prosecutor appearing for the respondent-State opposed the Criminal Petition stating that there is an element of cheating and criminal intimidation; it is not a fit case to quash the proceedings; and prayed to dismiss the petition.

5. As per the record placed before the Court, the *de facto* complainant executed and registered four sale deeds in favour of the petitioners-accused for valuable sale consideration. When one Nidumulu Poornachandra Raju interfered with the peaceful possession and enjoyment of the subject property, a suit in O.S. No.268 of 2017 was filed by the petitioner-A.2 before the Principal Senior Civil Judge, Machilipatnam, wherein the petitioner-A.2 has given the details of the property purchased under registered sale deed, *i.e.*, bearing D.No.15/124 situated at Edepalli, Machilipatnam, under two registered documents dated 24.01.2017 and 14.06.2017. The vendor is the *de facto* complainant in those sale deeds. In the above suit, it is also stated that the petitioner-A.2 is in possession of the property purchased under the above documents. The allegation is that the petitioners took the *de facto* complainant to attest a document in the Sub-Registrar's Office, but they have obtained regular sale deeds in their favour. As per the contentions putforth, the case of the petitioners-accused is that they have purchased the subject property under registered documents for a valuable sale consideration. The executant (*de facto* complainant) admitted the receipt of sale consideration and execution of the sale deeds before the Sub-Registrar concerned, when the documents were registered. In view of the

circumstances, the dispute between the parties is in civil nature. The investigation in this case would only be an abuse of power of the police. The appropriate remedy to the aggrieved persons is to seek relief in a Civil Court and not before the Criminal Court.

6. Under these circumstances, the proceedings in Crime No.75 of 2017 of Machilipatnam Town Police Station, Machilipatnam, are hereby quashed against the petitioners-A.1 to A.3. This Criminal Petition is allowed accordingly. As a sequel, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

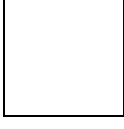
Date: 15-11-2017.

siva

Dr. SHAMEEM AKTHER, J



HON'BLE Dr. JUSTICE SHAMEEM AKTHER



Crl.P. No. 10045 OF 2017

Date. 15-11-2017

siva