

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.6850 and 7743 of 2011

COMMON ORDER:

Since the complainant and the cause of action is one and the same, the criminal petitions are disposed of together by this common order.

2. The criminal petitions are filed, seeking for quash of the proceedings in CC.No.334 of 2001, against the petitioners, who are A1 to A4, on the file of the Judicial First Class Magistrate, Prathipadu. The offences alleged are under Sections 166, 167, 177, 193, 196, 477-A read with Section 34 of the Indian Penal Code.

3. Heard the counsel for the petitioners, the learned Public Prosecutor, appearing for the first respondent and the counsel for the second respondent.

4. The facts of the case, as reflected in the complaint, are that the complainant is the resident of Uttarakanchi village, A1 and A2 are residents of Lampakalova, A3 is resident of Pedasankarlapudi and A4 is resident of Ravulapalem. The complainant is the absolute owner of 30 cents of land in Pedasankarlapudi village, which originally belonged to the mother of the complainant. She executed a relinquishment deed in favour of the complainant and his three brothers. It is a vacant site and as such, no tax is paid. A1 executed a gift settlement deed in favour of A2 as if the complaint schedule property is his ancestral property, with a view to grab away the complaint schedule property. On 28.07.2008, A2 with the assistance of A1 approached A3 for

issuance of pattadar pass book and title deeds. A3 tampered the adangal and illegally entered the names of A1 and A2 and within three days after registration i.e. 28.07.2008, the pattadar pass book and title deeds were issued to A2. A4 also colluded with A3 in issuance of pattadar pass book and title deeds. On coming to know about the facts, the complainant questioned A3 on which A3 said that he managed A4 as he got illegal gratification from A1 and hence, the complainant could do anything he could. Hence, this complaint.

5. The counsel for the petitioners, in the first place, contends that sanction is necessary to prosecute A3 and A4, who are public servants, as Section 197 of the Criminal Procedure Code mandates it and in this case, no such sanction was obtained. Consequently, he submits that a letter was addressed by the complainant to the Tahsildar and others seeking for cancellation of pattadar pass book and hence, the remedy for the petitioners is to approach the appellate authority over the order passed by the Tahsildar, if any and that this complaint is not maintainable as it is purely a civil dispute.

6. The counsel for the respondent, on the other hand, contends that sanction is required only when the alleged act is part of the official duty of A3 and A4. The counsel argues that the tampering of adangal and issuance of false certificate would not amount to part of their official duty. In support of his contention that tampering was done, he relied on an enquiry report dated 06.12.2010 by the Tahsildar, wherein it is stated that the land belonged to Juvvala family and that there is close relationship between Juvvala family and the family of the petitioners. After verification of the records, it came to light that the

lands belong to Juvvala family and it does not belong to the petitioners. It also shows that notice was issued to the petitioners in that regard and no reply was issued and no documents were submitted.

7. Hence, in the light of the above, it cannot be said that the allegations are baseless. The enquiry report clearly shows that the lands were concluded as belonging to Juvvala family and the circumstance of issuing pattadar pass books almost immediately to the application made by the petitioners would also throw support on the allegations made by the complainant. As regards sanction, the submission made by the counsel for the respondent is found to be correct. The law is well settled that sanction is required only if the alleged acts are part of the official duty. At any stretch of imagination, tampering of records cannot be considered as part of official duty. Even otherwise, the requirement of sanction can be decided at the time of trial. Hence, in view of the above, this Court opines that there is, *prima facie*, case against the petitioners attracting the alleged offences.

In the light of the above, the criminal petitions are dismissed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

September 11, 2018
DSK

T. RAJANI, J