

SMT. JUSTICE T.RAJANI

CRIMINAL PETITION No.8553 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in C.C.No.309 of 2010 on the file of III Judicial First Class Magistrate, East Godavari District, Rajahmundry, registered for the offences under Sections 447, 464, 506, 468, 383, 384, 340 read with Section 34 IPC, against the petitioners/A1 to A9.

2. Heard learned counsel for the petitioners, learned Public Prosecutor for the first respondent-State and learned counsel for the second respondent.

3. Earlier, the complaint filed by the second respondent/de-facto complainant against the petitioners was referred as 'civil case and false' and on a protest petition preferred by the de-facto complainant, the trial Court, after recording the sworn statements of witnesses, took the case on file.

4. Learned counsel for the petitioners submits that after the petitioners filed a case for the offence under Section 138 of Negotiable Instruments Act, the de-facto complainant filed the present complaint and therefore, the same is liable to be quashed.

5. A perusal of the statements of witnesses would show that there was settlement between the parties and after the de-facto complainant paid the due amount, the accused failed to return the

blank cheques, which were obtained by the de-facto complainant. The sworn statement of P.W.6 shows that when he went to the house of the de-facto complainant, he saw a gathering at the house and the de-facto complainant informed him that A1 was in possession of the property documents relating to him and his wife and the accused threatened him and there was no safety to him and his family members and thereafter, a panchayat was held and the amount due from the de-facto complainant was received by the accused.

6. The final report does not show about the examination of sworn statements by the police. Hence, it cannot be said that taking cognizance against the petitioners on the protest petition filed by the de-facto complainant is erroneous.

7. In view of the above, this Court finds that the matter has to be tried in order to arrive the truth and cannot be decided at this stage.

8. Hence, the Criminal Petition is dismissed. Miscellaneous applications, if any, pending in this criminal petition shall stand dismissed.

31st October, 2018

sj

T. RAJANI, J