

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.1280 of 2011

ORDER:

This criminal petition is filed, by the petitioners, who are A1 and A2, seeking for quash of the proceedings against them in C.C.No.430 of 2010 on the file of the court of Judicial Magistrate of First Class at Gadwal, Mahaboobnagar District. The offences alleged are under Sections 199, 209, 201, 420, 465, 468, 471 r/w 34 IPC.

2. Heard the counsel for the petitioners, the counsel appearing for the 1st respondent as well as the Public Prosecutor appearing for the 2nd respondent.

3. The allegations in the complaint are based on sale agreements, which were executed by the complainant in favour of the accused. The counsel for the petitioners submits that lot of litigations went on between the parties prior to the filing of this complaint and continued after the filing of this complaint.

4. The undisputed facts are that a suit was filed by the complainant viz., O.S.No.26 of 2008 before the court of Junior Civil Judge at Gadwal, seeking for permanent injunction against the petitioners/defendants, wherein an interim application was also filed and ad interim injunction was also granted in favour of the complainant/plaintiff on 10.03.2008. In the said suit, the complainant also filed I.A.No.46 of 2008 seeking for temporary injunction against the respondents/petitioners from causing interference in his possession and enjoyment over the suit land

pending disposal of the main suit. By order, dated 27.06.2008, the court of Junior Civil Judge at Gadwal, dismissed the said petition and vacated the ad interim injunction. Aggrieved by the said order of dismissal, the complainant filed CMA viz., C.M.A.No.25 of 2008 and the same was withdrawn. While so, the petitioners also filed a suit in O.S.No.51 of 2009 seeking for specific performance of the agreement of sale, which was dismissed by the court of Senior Civil Judge, Gadwal by order, dated 19.01.2008. Questioning the said dismissal, they preferred appeal viz., A.S.No.5 of 2018, which was allowed by order, dated 03.08.2018, decreeing the suit in favour of the petitioners/appellants therein. The first agreement of sale was executed on 18.03.2005 and the second agreement of sale was executed on 28.09.2005 after receiving the balance of sale consideration and delivering possession under the said sale agreement. It is the signature of the complainant on the second sale agreement that is brought to question in all the litigations, including in the present complaint.

5. The counsel for the petitioners submits that after filing this complaint, the complainant sent his signature and his signature on the agreement to the Forensic Laboratory and he also made a similar attempt in the civil suit filed by him and obtained a report from the Truth Labs showing that his signature does not tally with the signature made on the agreement.

6. Further, the observations made in the appeal filed by the petitioners, by the court of the III Additional District Judge,

Gadwal, by relying on the judgment of this court reported in VIROTHY TIRUPATHI VS. KOTA VENU [2016(4) ALT 478], that such practice of sending the signatures to the forensic laboratories cannot be upheld by the courts and that a person, who seeks to send a particular document to an expert to know the genuineness of his signature, will never affix his specimen signature in the same manner as he used to sign and would change the pattern of his signature to nullify that particular document, in order to get a favourable report from the Forensic Lab, are also very valid.

6. Be that as it may, from the contents of the complaint, it can be understood that it is purely a civil dispute between the parties and hence, the continuation of proceedings against the petitioners would only result in abuse of process of law. However, any observations made by this court in this order shall not have any bearing on the civil proceedings between the parties.

7. With the above observations, the Criminal Petition is allowed and the proceedings against the petitioners in C.C.No.430 of 2010 on the file of the court of Judicial Magistrate of First Class at Gadwal, Mahaboobnagar District, shall stand quashed. As a sequel, the miscellaneous applications pending, if any, shall stand closed.

T. RAJANI, J

November 5, 2018
LMV