

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.15035 OF 2016

ORDER:

This criminal petition is filed by the petitioners/accused to quash the proceedings in C.C.No.685 of 2015 on the file of Additional Judicial Magistrate of First Class, Kovur, SPSR Nellore District, registered for the offences punishable under Section 420 IPC.

Brief facts of the case are that, small extent of land and the rooms constructed therein was used to conduct Peerla Chavidi programme every year in Kovur village. Though, many unofficial committees have been changed with respect to Peerla Chavidi, the present committee consisting of the petitioners has been in existence for the past four years and this committee runs the Peerla Chavidi programme with the support of funds, donations and rents of the shops collected by them. The defacto complainant lodged a report with the Superintendent of Police, Nellore, stating that the committee members i.e the petitioners, with an evil intention to grab the said land, prepared a false settlement deed Doc.No.970 of 2015 in Sy.No.1096/1 on 04.06.2015 in favour of the first petitioner, claiming to be their ancestral property and got the settlement deed registered. It is alleged that the petitioners enclosed a false panchayat receipt and submitted at the time of registration. Based on the said false claim of right in the property belonging to Peerla Chavidi, these petitioners are collecting

donations, rent and trying to encroach the property in the guise of registration and therefore, requested to investigate into the offence.

On the basis of the complaint, the police registered Crime No.187 of 2015 for the offence punishable under Section 420 IPC and issued F.I.R.

On the basis of F.I.R, the Sub-Inspector of Police took up investigation, examined nine witnesses and recorded their statements under Section 161(3) Cr.P.C and on the basis of evidences collected during investigation, having concluded that there is *prima facie* material to proceed against these petitioners, filed charge sheet before the Additional Judicial Magistrate of First Class, Kovur, SPSR Nellore District, who in-turn took cognizance of the offences against these petitioners.

The present criminal petition is filed to quash the proceedings in C.C.No.685 of 2015 on the file of Additional Judicial Magistrate of First Class, Kovur, SPSR Nellore District, registered for the offences punishable under Section 420 IPC, on the ground that the second respondent has no *locus standi* to lodge a report with the police and that too, the petitioners did commit no offence, muchless, offence punishable under Section 420 IPC and prayed to quash the proceedings against these petitioners.

During hearing, learned counsel for the petitioners Sri Soma Harinath Reddy reiterated the contentions while bringing to the notice of this Court the allegations made in the complaint to set the criminal law into motion, where there was no allegations to constitute an offence punishable under Section 420 IPC and requested to quash the proceedings in C.C.No.685 of 2015 on the

file of Additional Judicial Magistrate of First Class, Kovur, SPSR Nellore District.

None appeared on behalf of the second respondent.

As seen from the allegations made in the charge-sheet, the investigation disclosed that the petitioners herein/A-1 to A-5 cheated the Muslim community and Kovur Awaz Committee members represented by the complainant by registering the Peerla Chavidi property by creating false document and tax receipts. The basis for filing charge sheet is the evidence collected during investigation, mainly the statements recorded by the police during investigation under Section 161(3) Cr.P.C. But, for one reason or the other, the petitioners did not place on record the evidence collected during investigation, except placing on record the proforma of the charge sheet filed before the Magistrate.

It is an undisputed fact that the evidence collected during investigation, including statements recorded under Section 161(3) Cr.P.C form part of the charge-sheet. When the very basis is the statements recorded, unless they are placed on record for perusal of this Court, the complicity of these petitioners cannot be determined and further, whether the allegations made in the charge sheet constitutes an offence punishable under Section 482 Cr.P.C, it is difficult for this Court to decide the real controversy between the parties, based on the proforma of charge-sheet. Even otherwise, the allegations made in the complaint and charge sheet goes to show that the land belongs to the Government and the petitioners created a settlement deed in favour of first petitioner

and collected donations from Muslim community and Kovur Avaz Committee, which is being represented by the second respondent.

When the second respondent claimed that he is being cheated by these petitioners, the basis for such cheating is collection of amount for performing Peerla Chavidi programme during Moharram festival. Further, registration of land belonging to the government and creating settlement deed Doc.No.970 of 2015 in Sy.No.1096/1 on 04.06.2015 is a matter of serious concern and unless the statements and other evidence collected by the police during investigation is placed on record, it is difficult for this Court to quash the proceedings at this stage.

Sofaras, *locus standi* is concerned, the second respondent is also one of the member of Avaz Committee and he is entitled to lodge a report.

In view of my foregoing discussion, I find no ground to quash the proceedings at this stage, since no material is placed on record, including the statements recorded under Section 161(3) Cr.P.C and that, the other evidence collected by the police during investigation that the land belongs to the government. In the absence of any material, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:30.07.2018

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