

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.643 OF 2018

ORDER:

Heard the learned counsel for the petitioners as well as the learned Public Prosecutor appearing for the 2nd respondent State. Though notice was served on the 1st respondent, she has neither appeared in person nor engaged any counsel on her behalf.

2. The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.5064 of 2017 in C.C.No.1962 of 2014 dated 31.1.2018 on the file of the I Additional Judicial Magistrate of First Class, Karimnagar, dismissing the petition filed Under Section 239 and 258 of Cr.P.C. to discharge the petitioners herein.

3. The facts of the case are that the 1st respondent herein filed a private complaint against the petitioners and others for the offence Under Sections 420, 447, 468, 471 and 506 IPC. The said complaint was referred to the Police Under Section 156(3) of Cr.P.C. Pursuant to the same, a crime was registered vide FIR.No.3 of 2010 for the offence Under Sections 420, 468, 471, 447 and 506 IPC and after conclusion of the investigation, a charge-sheet was filed. In the said charge-sheet, it is mentioned that Accused No.1 has committed

an offence Under Section 420, 468, 471, 447 and 506 IPC. However, as far as the petitioners herein are concerned, it is mentioned that they have committed offence Under Sections 420, 447, 506 read with 34 IPC. The Court below has taken cognizance of the offence and numbered the case as CC.No.1962 of 2014. During the pendency of the said CC.No.1962 of 2014, the petitioners herein filed CrI.M.P.No.5064 of 2017 to discharge them of the charges framed against them for the offence under Sections 420, 447, 506 read with 34 IPC. After hearing, the said petition was dismissed by the Court below on 31.1.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioners would contend that no prima facie case is made out against the petitioners for commission of any offence, more so, for the offence as alleged against them. In fact, he brought to the notice of this Court, the complaint filed by the 1st respondent herein wherein the entire allegation is only against the Accused No.1 in creating forged sale deed dated 7.8.1985 in respect of the land admeasuring Ac.1.07 gts. A perusal of the entire complaint would indicate that except using the word "collusion" against the petitioners herein, no allegation is made. In fact, the learned counsel for the petitioners also brought to the notice of

this Court that the petitioners herein are the purchasers of the land from the Accused No.1 Admittedly, they are not parties to the sale deed dated 7.8.1985. Further, learned counsel for the petitioners also brought to the notice of this Court that subsequent to filing of the complaint, the 1st respondent herein has sold away the subject land in favour of one B.Jaya Rama Rao and B.Chakradhar Rao under a registered sale deed dated 29.4.2010 vide document bearing No.3821 of 2010. As such, the petitioners do not have any title at present and hence, no cause of action would survive as far as the 1st respondent is concerned.

5. Per contra, learned Public Prosecutor, basing on the charge-sheet, supported the impugned orders in the present Criminal Revision Case.

6. Having regard to the facts and circumstances of this case and after hearing both the counsel, the admitted facts are that originally, the 1st respondent herein was the absolute owner of Ac.1.07 gts in Sy.No.310/B situated at Theegalaguttapally village of Karimnagar Mandal and district. In fact, she has purchased the said land from its original owner through 50-B certificate and her name was registered in the revenue records. While matter stood thus, it is alleged that in the year 1985, Accused No.1 created a sale deed dt.7.8.1985 by forging her

signature to show as if the said land has been alienated to him.

As far as the petitioners herein are concerned, they are the purchasers of small extents out of Ac.1.07 gts from the Accused No.1. The petitioners are, neither parties to the sale deed dated 7.8.1985 nor they have anything to do with the sale deed. From the charge-sheet, it is made clear that the petitioners herein have purchased the lands from the year 2004 onwards i.e., after 19 years from the date of sale deed. Under these circumstances, it cannot be said that the petitioners herein are parties to the sale deed dated 7.8.1985 said to have been brought into existence by forging the signatures of the 1st respondent. Therefore, this Court is of the opinion that no prima facie case is made out against the petitioners to frame charge and proceed with the matter. As far as Section 239 is concerned, the basic ingredient is existence of prima facie case to proceed further in the matter. However, a perusal of the admitted facts would not indicate that any prima facie case is made out against the petitioners for commission of any offence much less the offence as alleged against them.

7. Therefore, Criminal Revision Case is allowed discharging the petitioners for the offence Under Sections 420, 447, 506 read with 34 IPC in C.C.No.1962 of 2014 on the file of the I Additional Judicial Magistrate of First Class, Karimnagar.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

P. KESHAVA RAO,J

Date: 22.6.2018

KPM

