

THE HON'BLE SRI JUSTICE P.KESHAHA RAO

CRIMINAL PETITION NO.6510 OF 2011

ORDER:

Heard the learned counsel for the petitioners, learned Public Prosecutor and the learned counsel for 2nd respondent.

The petitioners who are accused 1 to 4, filed the present criminal petition seeking to quash the proceedings initiated against them in CC.No.147 of 2010 on the file of the Additional Junior Civil Judge, Srikalahasti for the offences under sections 193, 196, 204, 468, 469, 471, 500 and 120-B read with 34 of IPC.

The brief facts of the case are that the 2nd respondent herein filed a complaint against the petitioners herein stating that his father late Siddulagari Krishnamurthy executed a registered settlement deed on 21.11.2003 in his favour bequeathing in his favour, the house property bearing No.3-854 corresponding new Door No.3-1010 situated at Nagari Street, Srikalahasti which is his self acquired property. Aggrieved by the said execution of registered settlement deed in his favour, the petitioners 1 to 3 herein became greedy and colluded together and in order to occupy the said house property, filed a criminal complaint before the Additional Junior Civil Judge, Srikalahasti against the 2nd respondent under sections 354, 323

and 506 of IPC. Pursuant to the same, a crime has been registered vide FIR.No.31 of 2004. After enquiry, a report was submitted by the Urban Police of Srikalahasti referring the case as a false one. Subsequently, the 1st petitioner herein filed a suit in O.S.4 of 2010 on the file of the Principal Junior Civil Judge, Srikalahasti against the 2nd respondent herein and his father seeking for specific performance i.e., to execute a registered sale deed in terms of the sale agreement dated 13.5.1998. In the said suit, the 2nd respondent herein filed his written statement and contesting the same.

It is informed by both the counsel that at present trial has commenced and examination of witnesses on behalf of the plaintiff is going on.

The 2nd respondent herein who is the Defendant No.2 in the said suit O.S.4 of 2010 filed written statement pleading that the petitioners herein have concocted an agreement of sale dated 13.5.1998 by forging the signatures of late Siddulagari Krishnamurthy, the grand father of the 1st petitioner herein. After receiving the summons in the said suit, it appears the 2nd respondent filed C.C.147 of 2010 alleging forgery, etc.,

Learned counsel for the petitioners submitted that the matter is purely civil in nature and sought to quash all further proceedings.

Learned counsel for the petitioners would further submit that originally on 13.5.1998, the 1st petitioner has purchased house property from late Siddulagari Krishnamurthy for a sum of Rs.90,000/- towards sale consideration and the said amount was also paid. Since late Siddulagari Krishnamurthy who was residing in the house of the 2nd respondent herein was not coming forward to execute a registered sale deed, the 1st petitioner was constrained to issue a notice dated 4.12.2009 demanding for execution of registered sale deed. As there was no response, she was constrained to file a suit in O.S.No.4 of 2010 for specific performance. It appears that after receipt of the summons in the said suit, the 2nd respondent herein filed the present complaint stating that late Siddulagari Krishnamurthy who is his father executed a registered settlement deed on 21.11.2003 in his favour and also alleged that the petitioners herein, colluded together and conspired to knock away the property by forging the signatures of Siddulagari Krishnamurthy. The said issue is the subject matter of O.S.4 of 2010 on the file of the Court of Principal Junior Civil Judge, Srikalahasti. Therefore, the matter is purely civil in nature.

Per contra, learned counsel for the 2nd respondent would submit that the petitioners 1 to 4 herein conspired to knock

away the property and in the process, created agreement of sale dated 13.5.1998 by resorting to forgery, etc., Therefore, she submitted that no prima facie case is made out in the present criminal petition and is liable to be dismissed.

A perusal of the contents of the complaint as well as the averments made in the suit in O.S.4 of 2010 and the written statement filed by the 2nd respondent herein in the said suit would reveal that originally late Siddulagari Krishnamurthy was the absolute owner of the house property bearing Door No.3-854, corresponding new Door No.3-1010 at Nagari Street, Srikalahasti and he has executed a registered settlement deed dated 21.11.2003 in favour of the 2nd respondent herein. However, the contention of the 1st petitioner herein is that much prior to the execution of the said settlement deed, on 13.5.1998 itself, Siddulagari Krishnamurthy has executed an agreement of sale in her favour agreeing to sell the property after receiving a sum of Rs.90,000/- towards sale consideration. It is undisputed that the subject matter of the present C.C.No.147 of 2010 as well as the issue raised in O.S.4 of 2010 as to whether the 1st petitioner herein has created the said agreement of sale by resorting to forgery etc., is one and the same and it is brought to the notice of this Court that the 1st petitioner herein being the plaintiff, already let in her evidence.

That being the case, the issue as to whether the 1st petitioner herein has created the agreement of sale dated 13.5.1998 by forgery or not, is to be elicited after adducing proper evidence and the 2nd respondent herein has to prove that the agreement of sale dated 13.5.1998 is a forged and fabricated document. Therefore, this Court feels that when a comprehensive suit filed for specific performance is already pending for consideration, the issue which squarely falls up for consideration in the said suit cannot be made a subject matter of a criminal complaint. As such, this Court is of the opinion that the matter is purely of civil in nature and the parties can work out their remedies in the said suit. Therefore, this Court feels that continuation of the criminal proceedings in CC.No.147 of 2010 would amount to abuse of process of court and the criminal proceedings initiated against the petitioners are liable to be quashed.

Accordingly, criminal petition is allowed quashing the proceedings initiated against the petitioners for the offences under sections 193, 196, 204, 468, 469, 471, 500 and 120-B read with 34 of IPC in CC.No.147 of 2010 on the file of the Court of Additional Junior Civil Judge, Srikalahasti. However, it is open to the 2nd respondent to lodge fresh proceedings for forgery etc., if he succeeds in O.S.4 of 2010.

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

P.KESHAHA RAO,J

Date:3.1.2018

KPM

