

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.11999 OF 2013

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners - accused Nos.1 and 2 seeking to quash the proceedings in Calendar Case No.206 of 2014 on the file of the learned XIV Metropolitan Magistrate, Cyberabad at L.B. Nagar, registered for the offences punishable under Sections 447, 420, 468 and 506 of the Indian Penal Code, 1860.

2. The allegations in the complaint are that accused No.1, who is father of accused No.2, has forged the signature of father of respondent No.1 - complainant and executed a sale deed in favour of accused No.2 as if it was executed by father of the complainant, selling the property in the year 1966, and that accused No.2, in turn, sold the said property to accused No.3 by executing a registered sale deed in the year 1997.

3. The learned counsel for the petitioners - accused Nos.1 and 2 submits that accused No.2 was seven years old at the time when the alleged sale deed was executed by her father in her favour, and that she sold the property to accused No.3 considering that the property under the sale deed belonged to her.

4. From the very allegations itself, it can be concluded that accused No.2 was a minor at the time of execution of sale deed in her favour by her father, allegedly forging the signatures of father of the

complainant, and she, in all probability, would not be aware of the alleged forgery committed by her father - accused No.1.

5. Hence, from the above observation, the further proceedings in Calendar Case No.206 of 2014 on the file of the learned XIV Metropolitan Magistrate, Cyberabad at L.B. Nagar, are hereby quashed against accused No.2 alone.

6. In so far as accused No.1 is concerned, the learned counsel for the petitioners would submit that accused No.3 has filed a civil suit seeking perpetual injunction against the complainant and the same was decreed, holding that the sale deed is not fabricated. As against the said submission, the learned counsel for respondent No.1 submits that accused No.3 was convicted as the matter underwent trial since there was no stay against him, and that the said fact would suggest that there was some guilt on the part of accused Nos.1 and 3. The learned counsel for the petitioners submits that against the said order of conviction, they went in appeal and the appellate Court acquitted accused No.3 observing that it is accused No.1, who would be guilty. So, the observation made by the appellate Court would suggest that there might be some guilt on the part of accused No.1, and unless a due trial is taken up, the role of accused No.1, in the alleged fabrication of sale deed, cannot be decided.

7. Hence, considering the above, the present Criminal Petition is allowed in part in so far as accused No.2 is concerned, while dismissing it against accused No.1. However, the request of the learned counsel for

the petitioners to dispense with the presence of accused No.1 on the that that he being 84 years old, is facing difficulty to attend the trial Court on every date of adjournment, can be considered and, accordingly, the learned Magistrate is directed not to insist upon the presence of accused No.1 unless his presence is required for the proceedings.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed.

November 26, 2018
Mgr

SMT. T. RAJANI, J

