

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.9897 of 2011

ORDER:

This petition is filed, by the petitioners/accused, seeking for quash of the proceedings against them in C.C.No.372 of 2011 on the file of the court of I Additional Judicial Magistrate of First Class, Bhimavaram, West Godavari District.

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

3. The complaint is filed stating that the son of the complainant purchased a land from the petitioners and the consideration shown in the sale deed was Rs.5,70,000/- and the remaining part of the agreed consideration of Rs.12 lakhs i.e., Rs.6,30,000/- was given in cash and later the said land was registered in the name of the complainant. Subsequently, the complainant received summons from the AO of the District Court in O.S.No.82 of 2010, where he figured as defendant. The complainant made enquiries and came to know that the land was already sold to another person prior to the sale deed executed in favour of his son and that a suit was pending in that regard. The complainant questioned the 2nd petitioner and he agreed his mistake and he returned Rs.6 lakhs, which was received by him in cash. There was an agreement in the presence of elders on 18.10.2010 and that the said amount would be returned to the

2nd petitioner after the suit is disposed of. Further enquires were made with regard to the property and it came to light that the SLP was pending before the Supreme Court.

4. The counsel for the petitioners submits that the SLP was dismissed on 05.11.2014 and all the suits mentioned in the complaint, except O.S.No.82 of 2010, were withdrawn by the respective plaintiffs therein and that he does not have any information with regard to O.S.No.82 of 2010. O.S.No.175 of 2007 was dismissed for default on 06.07.2012 and O.S.No.52 of 1982 was decreed in favour of the petitioners and the property was handed over. The counsel for the petitioners contends that when the property was registered in the name of the son of the complainant and he is put in possession of the same and when the suit was decreed in his favour, there cannot be any grievance to the complainant.

5. Apart from all the above, the complaint itself shows that the complainant agreed to abide by the decision in O.S.No.83 of 2010 while taking back Rs.6 lakhs, which was given to him in cash. Hence, it appears that there is an agreement between the parties in respect of the dispute relating to the suit property. Hence, it cannot be said that the averments in the complaint would attract the alleged offences.

6. In view of the above, this court opines that continuation of further proceedings against the petitioners would be an abuse of process of law.

7. With the above observations, the Criminal Petition is allowed and the proceedings against the petitioners in C.C.No.372 of 2011 on the file of the court of I Additional Judicial Magistrate of First Class, Bhimavaram, West Godavari District, are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

September 26, 2018
LMV

T. RAJANI, J

