

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.2484 of 2016

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action on the part of the 2nd respondent in insisting upon the petitioner to withdraw the suit, OS.No.85 of 2015, on the file of the Court of the learned I Additional District Court, Anantapuram, and in attempting to settle the civil dispute in the police station as illegal and arbitrary, violative of principles of natural justice and to consequently direct the 2nd respondent not to harass the petitioner to withdraw the said suit.

I have heard the submissions of Sri N. Subba Rao, learned senior counsel representing Sri G.Nageswara Rao, learned counsel for the petitioner, of the learned Government Pleader for Home appearing for the respondents 1 & 2, and of Sri Challa Gunaranjan, learned counsel appearing for the 3rd respondent. I have perused the material record.

The introductory facts, in brief, are as follows:

The petitioner herein filed the afore-stated suit against the 3rd respondent herein for specific performance based on a contract of a sale, dated 02.10.2014, said to have been executed by the 3rd respondent. It appears that in the said suit the said Court granted an interim injunction order, on 09.06.2015, restraining 3rd respondent, his men and agents from alienating the property, which is the subject matter of the suit. On 02.12.2015, 3rd respondent filed a complaint under Section 200 of the Code of Criminal Procedure, 1973, on the file of the Court of the learned Judicial Magistrate of First Class, Guntakal, against four persons-accused including the petitioner-plaintiff in the said suit alleging that he misplaced his property documents in his house and that taking advantage of the same, the plaintiff, that is, petitioner/ A1 & others created the sale agreement in respect of his property as

if he executed the alleged agreement of sale in favour of the petitioner-1st accused and that the petitioner-1st accused filed the afore-stated suit based on the forged contract of sale. Learned Magistrate referred the said complaint to the Station House Officer, Guntakal I Town Police Station, for investigation and report. On receipt of the same, the said officer registered the afore-stated crime, on 26.12.2015, against the petitioner-A1 and A2 to A4 for the offences punishable under Sections 418, 423, 465, 467, 471 and 109 of IPC and took up investigation. During the course of investigation, six witnesses were examined by the Investigating Officer (IO). Thereafter, A5 to A7 were added to the array of accused in the afore-stated crime basing on the investigation thus far made. A5 & A6 were arrested and orders of remand to judicial custody were obtained. They were later released on bail. According to the IO, A5 & A6 made confessional statements before the mediators about the commission of the offence and their roles in the commission of the crime and that basing on such statements certain incriminating material was also seized. A1 to A4 filed CrI.P.490 of 2016 under Section 482 of the Code for quashing the crime. However, this Court while disposing of the same by an order, dated 21.01.2016, directed that the investigation shall go on, however, A1 to A4 shall not be arrested until completion of investigation. A1 & A3 obtained anticipatory bail orders in CrI.P.No.973 of 2016. In the orders in the said petition, they were directed to report before the IO as and when required. Be that as it may.

In this backdrop, the petitioner filed the present writ petition alleging that the 2nd respondent, the SI of police of Guntakal I Town Police Station, is acting in an illegal and arbitrary manner and that he is insisting upon him to withdraw the afore-stated suit and is attempting to settle the civil dispute in his police station and sought the afore-stated reliefs. Be it noted that in the first instance the petitioner-A1, A2, A3 and A4 filed the criminal petition aforementioned; and, hence, there was no progress in investigation for some time. Later, WP.no.6948 of 2016 is filed by A5 in the said crime requesting to

quash the proceedings against him. A7 also filed CrI.P.No.1507 of 2016 requesting to quash the proceedings in the crime against him. The said writ petition and the said Criminal Petition are also coming along with this writ petition. While so, 3rd respondent filed WP.No.46086 of 2016 for expediting the investigation in the afore-stated crime. All the four batch of proceedings are heard together in view of commonality of the subject matter and are coming for orders. This Court disposed of the writ petition filed by the 3rd respondent; criminal petition filed by the 7th accused; and, the writ petition filed by the 5th accused by separate orders made today.

During the course of hearing, it is stated by the learned Government Pleader for Home that no insistence was ever made to withdraw or settle the civil dispute much less in the police station and that the petitioner-A1 is at liberty to proceed with the prosecution of the suit. In view of the disposal of the other above stated three proceedings, now there are no impediments for proceeding with the further investigation into the subject crime. There are also no impediments for the petitioner/ A1, prosecuting the civil suit as per law notwithstanding the investigation that will go on in the crime as per law and procedure.

Hence, recording the submissions of the learned Government Pleader for Home that the petitioner is free to prosecute his suit in accordance with the procedure established by law and as per his desire, the Writ Petition is disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

25.06.2018
Vjl