

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition Nos.4994 and 5004 of 2018

COMMON ORDER :

The quash petitioners by names Mohammad Yousuf Khan and Vasam Tulasamma are one and the same in both the petitions in seeking to quash the proceedings of C.C.No.90 of 2015 on the file of the Judl.Magistrate of First Class Magistrate, Pro.& Excise, Nalgonda against them from the report of the defacto-complainant Varkala Vijaya covered by Cr.No.205 of 2013, dt.29.06.2013 registered by II Town Police Station, Nalgonda for the offences punishable under Sections 420,468 and 471 IPC from the police finalized the investigation and filed chargesheet against them by saying for the other accused A.3 in abscondence of a suspect separate chargesheet later to be filed and the same was taken cognizance for the offences supra by the learned Magistrate and the same is impugning in the CrI.P.No.4994 of 2018.

2. So far as CrI.P.No.5004 of 2018 is concerned in seeking to quash the proceedings in C.C.No.660 of 2015 before the self-same Court for similar offences outcome of Cr.No.108 of 2011 dt.16.04.2014 from report of the defacto-complainant Syed Basheer Ahmed, Tahasildar, Nalgonda and the police after investigation filed chargesheet that was taken cognizance by the learned Magistrate.

3. The contentions in the quash petitions respectively by the petitioners/ accused are that these are the false complaints against them outcome of political influence by the Mandal Revenue Officer (for short, 'the MRO') and the Station House officer (for short, 'the SHO'). Earlier due to illegal gratifications, the MRO issued pattas and taken back the same from the pattadars without any valid reasons and filed false cases in collusion with the SHO. The pattadars constructed more than 450

houses in Ramnagar colony, Nalgonda in Sy.Nos. 229 and 237 and the fraud played by the MRO, Nalgonda and to suppress the same he influenced the SHO in foisting false cases. The owners of Ramnagar Welfare Association earlier filed W.P. No.2560 of 2008 before the High Court covered by the order dated 09.04.2013 that was not even implemented by the MRO and the petitioner No.2/ A.2 therefrom made an application for implementation of the orders in the writ Petition and the Collector wrote a letter to the Revenue Divisional Officer(for short, 'the RDO') Nalgonda dt.10.05.2017 saying the petitioners are no way concerned with said offences in C.C.No.660 and C.C.No.90 of 2015 respectively which are subject matter of the two quash petitions. The MRO to cover up own mistake, foisted the cases against the petitioners by influencing the SHO out of grudge since the petitioners are social workers and attending grievances of the poor and innocent victims of the locality including in making representations to the officials. The petitioners never misuse any government officials with their signatures and seals and the allegations against them are false and the registration of crimes, filing of chargesheets and taking of cognizance are liable to be quashed.

4. The learned counsel for the petitioners in both the quash petitions reiterated the contentions supra. Whereas, the learned Public Prosecutor representing the 1st respondent-State, opposed the quash petitions saying there is prima facie accusation from which the police after investigation filed final reports that were taken cognizance by the learned Magistrate in both the cases and there is nothing to quash any of the proceedings and thereby sought for dismissal of the two quash petitions.

4. Heard and perused the material on record including additional material placed reliance by the quash petitions.

5. The sum and substance of the accusation so far as in C.C.No.90 of 2015 where the defacto-complainant is one Varkala Vijaya, native of Koritikal village of Munugode Mandal against the petitioners/ A.1 and A.2 is that she met one Mandula Salamma and informed of house pattas plots/ sites are being given to poor people of Nalgonda and this was informed to her by one Baba staying at Hyderabad and she paid the amount and asked the defacto-complainant (Varkala Vijaya) to pay amount if she requires any house site/ patta and from which she along with her daughter Varkala Shailaja and other villagers viz; Mandula Padma, Cherupalli Ramana and Adi Radhika among others went to Baba of Hyderabad and they all together went to the house of the petitioners/ A.1 and A.2 along with said Baba about four years ago where the petitioners stated that they are frequently visiting to government offices and doing pairavies (influences) and asked them to pay an amount of Rs.5,000/- each with two photographs of each and shown open land situated behind their houses and they believed the words of the petitioners and paid the amount and given photos, the A.1 Yousuf Khan affixed photos of each persons and filled their addresses in the papers and left the house saying patta certificates will be given in the evening and in the evening A.1 brought certificates and handed over to them vide patta Nos.B8/ 7319/ 82-M/ 1250/ 83,dt.01.01.1997 in the Sy.Nos.229 and 237. However they recently when wanted to construct houses in the plots by approaching the Tahasildar, they came to know that the said pattas are fake and not issued by the office of the Tahasildar, hence to take action against the accused persons.

6. In the course of investigation 9 witnesses were examined out of which most are the victims in the hands of accused from the fake and forged patta certificates issued by the accused, shows that the petitioners hatched a plan to earn easy money and explained to A.3 to lure innocent persons and they implemented their plan to share the amounts collected from the innocent victims and as per the plan they lured the victims on different dates to part with each Rs.5,000/- to provide pattas for house sites by showing open land existing behind the house of them (the petitioners) in Ram Nagar locality, Gollaguda outskirts saying the same is government ceiling land and believing the said words of the petitioners as they are helping them as social workers, they paid amounts and two photos each and the accused prepared fake house-site pattas by forged the signatures and seals of the MRO and gave them to the victims.

7. The chargesheet describes that from the statements of the witnesses show said fake pattas issued by the accused persons-the A.1 and A.2 and the A.1 and A.2 were arrested on 29.06.2013 and produced before the Court and A.3 was shown in abscondence and sought to issue NBW. What the petitioners placed reliance on the order in Writ Petition No.2560 of 2008 dt.16.02.2017 filed by the Ramnagar Plot Owners Welfare Association, Gollaguda, Nalgonda represented by its President Smt.Abeda Begum W/o Yousuf Ali against the three respondents originally viz; 1) the District Collector, Nalgonda, 2) the RDO Nalgonda and 3) the MRO, Nalgonda and the second quash petitioner herein Vasam Tulasamma, was later impleaded as Writ Petition R.4 as per order dt.06.02.2017 in WPMP No.48991 of 2015 by showing as surrendered Naxalite. The prayer in the writ petition reads as declaring the action of respondents in not granting possession in respect of the patta

certificates dt.01.01.1997 issued to them in Sy.Nos.229 and 237 of Gollaguda area of Nalgonda town and the order passed by the Single Judge of this Court another bench in the main Writ Petition shows that as per the averments the Members of the petitioner-Association are landless poor artisans, Rickshaw pullers and auto drivers etc., with no shelter and the land in Sy.Nos.229 and 237 is the Government land and the Members of the petitioner-Association with others represented in 1996 for grant of house site pattas and as per the scheme drawn by Government, plots comprising of 100sq.yards each to allot each who have undergone family planning operations effected and the District Collector directed the RDO and the MRO Nalgonda for preparing list of beneficiaries and enquiry conducted and the MRO prepared lay out and issued patta certificates on 01.01.1997 and issued to the beneficiaries including the petitioner-Association but failed to hand over possession of the land for which they made representation through V.Thulasamma-A.2 herein, to the Grievance Cell to the District Collector, who in turn sent to the MRO who in turn addressed a letter dt.25.07.2003 to the RDO stating that lay out plans are being prepared and on receiving the assent from the RDO, pattas would be distributed however with no action. While so, on 11.02.2008, the Court passed the order that according to the order, the petitioners house-site pattas were issued but possession was not given by actual plots allotted despite their representation to the District Collector on 30.06.2007 and the MRO submitted the report earlier to it on 27.05.2003 showing the list of allotment of house sites to eligible persons prepared including lay out and patta certificates were also prepared to hand over the same as and when the RDO approves is the case of the petitioners in ordering notice to file counter. On 22.04.2009 and on 04.06.2009 again it is observed of order not complied

with by putting beneficiaries in possession and to comply, else to take remedy under the Contempt of Courts Act and in spite of interim orders not complied however counter-affidavits filed in June, 2009 disputing averments in Writ Petition saying those so called patta certificates are fake and those patta certificates reflecting as if given excess ceiling land for the land in Sy.Nos.229 and 237 was acquired land and not given excess ceiling land and the plot numbers mentioned in the so called spurious pattas not in existence and thereby not entitled.

8. The Court thereafter observed that the certificates given by the MRO to the beneficiaries are fake. It is strange as to no action initiated against the MRO as one who produced certificates all through and mere denial in the counter will not substantiate that contentions, if really those are forged and fabricated, the authority could have lodged report before police against the persons who sought to take benefit from those certificates and V.Tulasamma-A.2 herein gave a complaint in the Grievance Cell which lead to issuance of the letter, dt. 27.05.2003 which was not seriously disputed by the Govt. Pleader and that letter shows the list containing eligible persons came to be prepared and a lay out is being prepared for allotment of house plots and as soon as the RDO approves, patta certificates would be issued to the eligible persons. Those lists of eligible persons was prepared and lay out was being prepared for the allotment of house plots to the Members of Ram Nagar area, however there appears a doubt as to why the respondent-authorities not taken any action against the MRO or the concerned officials if really the patta certificates issued are forged and fabricated.

9. With the above observations directed on the letter of the MRO, to allot plots or provide alternate plots to the Members of the petitioner-Association at the earliest.

10. The order in the writ petition is not of relevance in deciding quash petition averments of C.C.No.90 of 2015 (CrI.P.No.4994 of 2018) supra. Coming to C.C.No.660 of 2015 (CrI.P.No.5004 of 2018) supra the First Information Report averments, dt.16.04.2011 of the Tahasildar/ defacto-complainant to the SHO shows on receipt of reliable information regarding preparation and issuance of forged house site patta certificates, they produced house site patta certificates issued by the Tahasildar's office, Nalgonda, when verified the office record, it is found those are bogus and forged and both the accused are behind it in cause prepared such forged patta certificates and selling to innocent people, hence to take action.

11. This report also correlates to the report in C.C.No.90 of 2015 of the defacto-complainant-Varkala Vijaya w/ o Yadaiah referred supra. What the order in the Writ Petition observed is why action not taken against the Tahasildar, if those pattas are not genuine but fake ones if at all the other proceedings if at all forged or fake certificates that order was dated 16.02.2017 and Writ Petition pending since 2008. The report of the defacto-complainant-Tahasildar in C.C.NO.660 of 2015 as referred supra was during pendency of the Writ Petition on 16.04.2011 in Cr.No.108 of 2018 and that of Varkala Vijaya referred supra dt.29.06.2013 Cr.No.205/ 2013. It clearly shows even by the time, the Writ Petition order passed already both the crimes are pending. Those facts merely because not brought to the notice of the writ court in passing the order if at all there is nothing to belie those facts borne by the First Information Reports.

12. No doubt subsequent to the Writ Petition order supra, the District Collector Nalgonda by letter dt.10.05.2017 directed the RDO Nalgonda to give a detailed report within one week on the orders of the

High Court for further necessary action to be taken. There are references about Prajavani and proceedings of the RDO during 2012-2013 in seeking to allot the sites pursuant to the alleged pattas and as occupants the RDO mentioned their claims are false and those are not genuine lands or not even good lands as those are patta lands and question of their encroachment of any Government lands in Sy.No.227 and 239 does not arise even from the additional material placed reliance from the quash petitioners in the two petitions those are only so called pattas with the respondent contained as fake pattas with forged signatures of the MRO. That no way improves even pursuant to the order of the High Court in steps taken for allotment of any land pursuant to the so called fake pattas will not absolve any criminal liability of the petitioners, once the material shows the petitioners collected from each of the beneficiaries amount of Rs.5,000/- each in cause issuing the so called fake pattas in their names that what the allegation and the investigation reveals. Any delay in the respective reports of the alleged occurrences left open for appreciation during trial of the case.

13. Accordingly with these observations, both the Criminal Petitions are dismissed by left open all available defences to the petitioners. Consequently, miscellaneous petitions in both the Criminal Petitions shall stand closed.

Date:01.11.2018
b/ o.vvr

Dr. B. SIVA SANKARA RAO, J