

**SMT. JUSTICE T. RAJANI**

**CRIMINAL PETITION No.13955 OF 2011**

**ORDER:**

The present Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 is filed by the petitioner - accused No.1 seeking to quash the proceedings in Calendar Case No.460 of 2008, pending on the file of the III Additional Judicial Magistrate of First Class, Kakinada, registered for the offences punishable 406 and 420 of the Indian Penal Code, 1860.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for respondent No.1 and also the learned counsel for respondent No.2.

3. The allegations in the complaint are that the petitioner herein, who is the brother of husband of respondent No.2 - *de facto* complainant has taken possession of four Lorries, which belonged to her husband and he sold away lorry bearing registration No.AP 5Y 9234 to one Yerramsetti Jaganmohan Rao and lorry bearing registration No.AP 5Y 8424 to one Sagiraju Purushottam.

4. While these are the allegations made in the complaint, the learned counsel for the petitioner draws the attention of this Court to the litigation that went on between the parties. He draws the attention of this Court to the order, dated 06.11.2008, passed by the learned III Additional Judicial Magistrate of First Class, Kakinada, in CrI.M.P.

No.4390 of 2008 in Cr.No.121 of 2008, wherein the Court ordered interim custody of three Lorries, which includes the lorry bearing registration No.ATP 8424. He also submits that this petition is filed subsequent to the filing of complaint.

5. Hence, in view of the fact that the interim custody was sought for by respondent No.2 and that it was given to her by way of above order, it cannot be accepted that the Lorries were sold away by the petitioner. The learned counsel also submits that there were number of suits filed by respondent No.2; one seeking for partition in O.S. No.63 of 2009 on the file of the III Additional District Judge, Kakinada and the schedule does not show that the Lorries were mentioned therein. Another suit is filed in O.S. No.90 of 2009 on the file of Senior Civil Judge, Pithapuram seeking for partition. There is yet another suit filed in O.S. No.515 of 2009, on the file of I Additional Junior Civil Judge, Kakinada, seeking for permanent injunction. She also filed another suit in O.S. No.372 of 2009 on the file of the II Additional Junior Civil Judge, Kakinada seeking for permanent injunction.

6. In view of the above, this Court opines that the contents of the complaint are not *prima facie* genuine, and more over, it appears to be predominantly a civil dispute. Thus, continuation of further proceedings, in the above crime, would be nothing but abuse of process of law.

7. Hence, considering the above, the present Criminal Petition is allowed, and all the proceedings in Calendar Case No.460 of 2008,

pending on the file of the III Additional Judicial Magistrate of First Class, Kakinada, against the petitioner - accused No.1 are hereby quashed.

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

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**SMT. T. RAJANI, J**

**November 15, 2018**  
Mgr

