

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.16857 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioners-A.1 to A.5 seeking to quash the proceedings in crime No.171 of 2016 of Rajampet (U) police station, YSR Kadapa district registered for the offences punishable under Sections 420, 463, 465, 467, 468, 469, 471 read with 120B IPC.

2. Heard the learned counsel for the petitioners, the Assistant Public Prosecutor appearing for respondent No.1-State and the learned counsel for respondent No.2 and perused the record.

3. Learned counsel for the petitioners would contend that the dispute between the parties is civil in nature; that there is no mention of cheating in the report lodged with police; that as per the case of prosecution, the petitioner-A.5 is said to be a mediator; that there are no grounds to register the impugned crime for the aforesaid offences, and hence, continuation of the impugned proceedings is nothing but abuse of process of Court, and ultimately, prayed to quash the impugned proceedings.

4. On the other hand, learned Assistant Public Prosecutor opposed the grant of relief sought in the Criminal Petition and contended that the subject property was registered by petitioners-A.3 and A.4 without there being any title and possession thereto; that so also, petitioners-A.1 and A.2 executed General Power of Attorney-cum-sale in favour of petitioners-A.3 and A.4 without there being any document in their favour and thus

cheated the defacto complainant and the matter requires investigation.

5. Learned counsel for respondent No.2-defacto complainant contends that the allegations in the report lodged with police make out *prima facie* case for the offences alleged and hence, there are no grounds to quash the impugned proceedings.

6. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in crime No.171 of 2016 of Rajampet (U) police station, YSR Kadapa district are liable to be quashed ?

7. The matter has been heard at length. In the course of submissions, it has come to light that without there being title and possession, the subject property was alienated in favour of the defacto complainant by taking huge amount i.e. Rs.17,82,000/- under registered sale deed bearing document No.242 of 2008, dated 16.02.2008 registered in the office of the Sub Registrar, Rajampet. It is appropriate not to express any opinion with regard to title of the vendors of the defacto complainant. It is left open. The allegations made in the First Information Report dated 05.11.2016 with regard to fraudulent alienations of the subject property in favour of the defacto complainant by petitioners-A.13 and A.4 are required to be determined in the course of investigation, so also, the title of petitioners-A.1 and A.2. There are allegations petitioner-A.5. Innocence or otherwise of petitioners-A.1 to A.5 is required to be investigated into by the investigating officer in the subject crime. There are grounds to register crime No.171 of 2016 of Rajampet (U) police station, YSR

Kadapa district for the offences alleged against the petitioners-A.1 to A.5. Hence, investigation in the said crime cannot be said to be abuse of process of Court. The Criminal Petition is devoid of merit and is liable to be dismissed.

8. In the result, the Criminal Petition is dismissed. However, one week time is granted to the petitioners to surrender before the court concerned and seek appropriate remedy.

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

DATED: 5.2.2018
DRK

DR.SHAMEEM AKTHER, J



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05.02.2018

DRK