

THE HONOURABLE SRI JUSTICE P.KESHA RAO

CRIMINAL PETITION No.6878 of 2010

ORDER:

Heard the learned Special Public Prosecutor for petitioner and the learned counsel appearing for the respondents.

The prayer sought for in the Criminal Petition is as under:

***“...to quash the order passed by the learned
Special Judge for SPE & ACB cases,
Visakhapatnam in Cr.M.P.No.242 of 2009.”***

The present criminal petition is filed to quash the orders passed in Crl.M.P.No.242 of 2009 in Crime No.14/RCA-ACB-VZM/2008, dated 19.04.2010 permitting the respondents herein to sell away the house flats pertaining to the petition schedule property in an extent of Ac.0.16 cents house site situated at Gajula Veedhi locality No.7, RS No.21 part, TS 952 within the Municipal limits of Srikakulam, subject to depositing double the value of the sale deed i.e., Rs.62,000/- in favour of the Court and attachment against the schedule property is raised.

Basically, the main issue in the case relates to acquisition of disproportionate assets by the husband of the respondent No.3 herein. The Criminal Miscellaneous Petition No.242 of 2009 was filed before the Court below by the respondents herein, when the crime was at the investigation stage. During the course of

arguments, it is brought to the notice of this Court by the learned Special Public Prosecutor appearing for the petitioner that the investigation is completed and charge sheet has already been filed. Pursuant thereto, the Court below has taken cognizance of the offences and numbered the case as C.C.No.26 of 2010. The prosecution has already examined PW-1 and the matter is coming up for further evidence. Since the investigation has already been completed and charge sheet has been filed, this Court feels that the orders passed by the Court below in CrI.M.P.No.242 of 2009, when the crime is at the investigation stage, may not sustain. Therefore, this Court feels that the respondents can move a fresh application before the Court below in which event the Court below will be in a better position to appreciate the facts and circumstances in proper perspective for deciding the issue in question, more particularly whether the house flats in question are forming part of the disproportionate assets acquired by the husband of the respondent No.3 or not and whether the selling away of the subject flats has got any bearing on the case while adjudicating the merits of the case.

Accordingly, the Criminal Petition is allowed by quashing the orders passed in Criminal Miscellaneous Petition No.242 of 2009 in Crime No.14/RCA-ACB-VZM/2008, dated 19.04.2010. However, liberty is given to the respondents herein to move a fresh petition, in which event, the trial Court is directed to consider the charge sheet and evidence brought on record and pass appropriate orders.

The interim suspension granted in CrI.M.P.No. 6436 of 2010 stands vacated. Miscellaneous petitions, pending if any, shall stand closed. No order as to costs.

JUSTICE P. KESHA RAO

Date: 04.04.2018

Slk



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