

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6386 of 2018

ORDER:

This criminal petition is filed under Section 438 Cr.P.C. by the petitioners/ A4 and A5 in Crime No.396 of 2017 of Kothur Mandal Police Station, Cyberabad District, registered for the offences punishable under Sections 420, 468 and 471 r/w 120-B I.P.C.

2. Heard learned counsel for the petitioners and learned Public Prosecutor representing the State and perused the F.I.R., bail application averments and Part-I Case Diary.

3. The learned counsel for the petitioners submits that the dispute is purely civil in nature and the petitioners are the bonafide purchasers under registered sale deed dated 14.03.2016 from one Bandi Chennaiah S/o late B.Balaiah, for Balaiah was the protected tenant of the lands and B.Chennaiah is the legal heir of Balaiah and there is a civil court proceedings in O.S.No.218 of 2008 of Junior Civil Judge, Shadnagar, declaring B.Chennaiah is the legal heir of protected tenant B.Balaiah and the then Tahsildar by name V.Lakshminarayana of Farooqnagar issued proceedings dated 23.02.2013 for restoration of possession to the said B.Chennaiah as legal heir as protected tenant B.Balaiah under the Act, 1950, other than for Ac.9.02 guntas in part of Sy.Nos.22, 23, 25 and 28 that was mortgaged to Andhra Pradesh State Financial Corporation Ltd., which put to auction and he was a purchaser and in directing the Mandal Revenue Inspector, Kothur, to handover physical possession under cover of panchanama. It is the submission in the course of

hearing that said order of Tahsildar was set aside by the Joint Collector by order dated 15.03.2013 itself in Case No.F1/ 08/ 2013 and a revision is filed under Section 91 of the Act, which is pending before this Court though there is no stay.

4. The learned Public Prosecutor opposed the bail application saying there is a deep rooted criminal conspiracy and the petitioners are not mere bonafide purchasers and what the de facto complainant by name, K.V.Pangarao reported of the so called registered sale deed in the name of the petitioners, M.Anand Kumar and K.Jaipal Reddy bearing document No.2245/ 2016 dated 14.03.2016 is vague if not corrected even it is his endeavour in saying part of his lands purchased from the State Financial Corporation Ltd., by public auction was covered by the sale deed recitals. It is also pointed out that in page No.2 of the sale deed there is a reference in pattadar passbook and title deed of 2014 obtained by the Chenaiah and the then Tahsildar Pandu given statement during investigation that pattadar passbook and title deed issued by him and his signature was forged and that was fake and it is the submission of the learned Public Prosecutor that it is under investigation and not only that pursuant to the sale deed dated 14.03.2016, the petitioners managed to create pattadar passbook and title deed in their favour for the land in question and the Tahsildar, Ch.Nagaiah gave his statement saying his signature was forged as if he was M.Nagaiah and in view of the same, the petitioners does not deserve concession of anticipatory bail, leave about the petitioner went unsuccessful in moving for quash

proceedings. In fact, none of the offences are punishable above 7 years, the police strictly have to follow Section 41-A Cr.P.C. and the guidelines of the Apex Court as laid down in Arnesh Kumar v. State of Bihar¹.

5. In this regard, it is the submission of the learned Public prosecutor that even notice under Section 41-A Cr.P.C was issued and the same was not complied with and the police approached the learned Magistrate to permit for arrest invoking Section 41-A(4) Cr.P.C. and permission not granted because of the quash proceedings pending before this Court and there was an interim stay, though, it is for a short time not shown it appears extended but for ultimately withdrawn very recently.

6. Having regard to the above, though the petitioners do not deserve concession of anticipatory bail, they are given liberty to comply with Section 41-A Cr.P.C. notice within one week from today for the investigating officer to proceed as per the guidelines of Arnesh Kumar (supra).

7. Accordingly, the Criminal Petition is disposed of.

8. Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 05.07.2018
pab

¹ (2014 (2) ALT (GrI.) 457 SC)