

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7590 of 2018

ORDER :

The petitioners are A.1 to A.7 of Crime No.199 of 2018 of Madhira Town Police Station, Khammam District, registered for the offences punishable under Sections 109, 120-B, 420, 423 and 424 read with 149 IPC, dated 12.07.2018.

2. The sum and substance of the private complaint of the *de facto* complainant against the accused persons, dated 14.05.2018, subsequently filed before the learned Magistrate and referred to police for investigation under Section 156(3) Cr.P.C. in registration of the crime supra, incorporating the offences mentioned in the complaint is that, A.1 and A.2 are brothers, A.3 is wife of A.1, A.4 is son of A.1 and A.3, A.5 is daughter of A.2, A.7 is elder sister of the complainant and cousin sister of A.1 and A.2 and A.6 is supporter of A.1 to A.5. The paternal grand father of the complainant Seelam Veeraiah originally pattadar of the lands of Ac.1.09 ½ gts. of Ambarupeta Village of Madhira Mandal in Sy.No.24/AA, subsequently said Veeraiah's son Raghavulu @ Raghavaiah from death of Veeraiah succeeded the property by inheritance and after demise of Raghavulu supra, the children, who are the complainant and her sister A.7 inherited. It is also the case that complainant's marriage was performed on 10.05.1987, which is subsequent to the amendment of the Hindu Succession Act, by Sections 29 (A) to (C), came into force from 05.09.1985 and as such the complainant was coparcener along

with her father since died and the share of her father succeeded by the complainant and her sister A.7 equally and as such A.7 is entitled to only $\frac{1}{4}^{\text{th}}$ and complainant $\frac{3}{4}^{\text{th}}$. Leave about the survivorship to continue for the property if it is for the third generation, otherwise only after 1956 for any death of the self acquired property succession opens under Section 8 of the Act and whether the complainant is a coparcener or not, is a disputed fact to be adjudicated in a civil lis. Leave it as it is, even taken on face value of the said averment, what the further averment in para 3 of the complaint is that at the instigation of A.7, A.1 to A.3 illegally constructed three houses in each Ac.0.04 cents with Door Nos.2-36, 2-37 and 2-37/1 in Ac.0.12 cents of land out of Ac.1.09 $\frac{1}{2}$ gts. Even taken for arguments sake, in the undivided property any houses constructed by them, it can be asked for allotment in equities in the partition to consider for not even that Ac.0.12 cents exceeds the $\frac{1}{4}^{\text{th}}$ share on the face value of allegations. Once such is the case, there is no any criminal offence that could be made out for the private complaint referred to police for investigation by learned Magistrate or to register the crime or to keep the matter pending.

3. Having regard to the above, the criminal petition is allowed, the proceedings of Crime No.199 of 2018 registered by Madhira Town Police Station, Khammam District, from the referred report of the learned Magistrate are quashed. The bail bonds of the accused, if any, shall stand cancelled. Civil remedies are left open.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

1st November 2018.

mar

