

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.8951 OF 2011

ORDER:

The present Criminal Petition is filed, under Section 482 of the Code of Criminal Procedure, 1973, by the petitioners - accused seeking to quash the proceedings against them in Crime/FIR No.181 of 2011, dated 16.09.2011, of Kakinada II Town Police Station, East Godavari District, Andhra Pradesh State, registered for the offence punishable under Section 304, 338, 337 and 336 read with 511 of the Indian Penal Code, 1860 (for short 'IPC').

2. Heard the learned counsel for the petitioners - accused and the learned Public Prosecutor for the State of Andhra Pradesh who takes notice for respondent Nos.1 and 2.

3. The learned counsel for the petitioners would submit that the complaint is filed by respondent No.2 stating that the apartment, of which the petitioners are builders, has sunk and that from the physical inspection conducted, it was understood that there was violation on the part of Town Planning Officers. The learned counsel also submits that Occupancy Certificate was given by the Commissioner, Municipal Corporation, Kakinada, after inspecting the building, and that the J.N.T.U. College of Engineering, Kakinada also issued a Structural Stability Certificate after inspecting the building and that there is no fault on the part of the builder. He also submits that, in fact, none of the inmates of the apartment were injured and all the residents of the

apartment were evacuated and they were allotted new flats and there is a memorandum of understanding between the residents of the apartment and the builder. The learned counsel also placed a copy of the said memorandum of understanding and requested to allow the Criminal Petition.

4. The learned Public Prosecutor for the State of Andhra Pradesh did not refute the said fact.

5. Perused material on record and the certificates referred supra. The complaint shows that the building did not collapse, but it has sunk which may be due to some natural reasons. Due certificates were issued by the concerned departments. Thus, there appears to be no fault on the part of the builder in the mishap. Hence, considering the said circumstances, this Court opines that all the further proceedings in the aforesaid crime are liable to be quashed against the petitioners.

6. Accordingly, the present Criminal Petition is allowed and all further proceedings in Crime/FIR No.181 of 2011, dated 16.09.2011, of Kakinada II Town Police Station, East Godavari District, Andhra Pradesh State, are hereby quashed against the petitioners - accused.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed, and the interim stay granted by this Court stands vacated.

SMT. T. RAJANI, J

October 22, 2018
Mgr