

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.1598 of 2013

ORDER:

The challenge in this CrI.R.C is the order dated 08.07.2013 in CrI.M.P.No.442/2013 in C.C.No.14/2012 passed by the learned Judicial Magistrate of First Class, Srungavarapukota, dismissing the petition filed by petitioners/A.5 and A.6 under Section 245(2) Cr.P.C seeking to discharge them.

2) Heard both sides.

3) At the outset I find no perversity or illegality in the order impugned. The petitioners/A.5 and A.6 being the public servants allegedly issued the certificate dated 23.02.2007 stating that the land in Sy.No.120/6 in an extent of Ac.1-87cents is a Zeroity dry land standing in the name of 1st accused and believing the contents in the said certificate to be true, the complainant purchased the land from A.1 and later if turned out that the subject land is a patta land assigned to one Pitta Sanyasi.

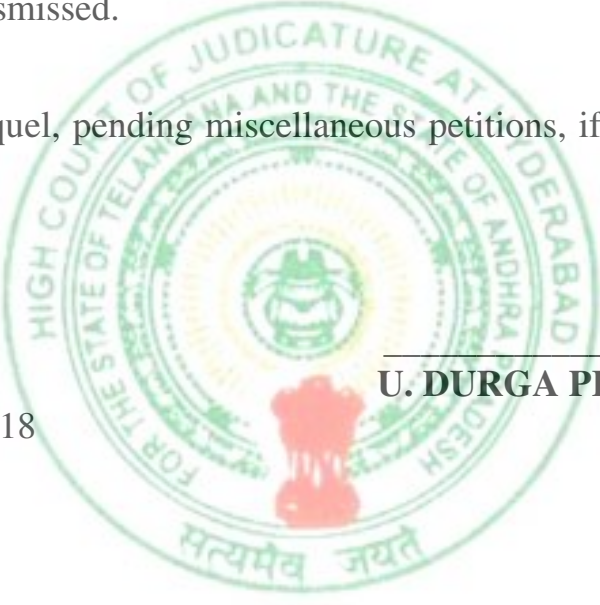
a) In view of the strong *prima facie* material, the petitioners/A.5 and A.6 are liable to be charged along with other accused. Their innocence and lack of *mens rea* etc, can be decided only after a full-fledged trial and not at this stage.

b) So far as the argument touching the sanction to prosecute petitioners/A.5 and A.6 is concerned, the Trial Court having relied upon the decision of the Apex Court reported in *Shambhoo Nath Misra v. State of U.P. and others*¹, rightly observed that in an offence of fabrication of record and misappropriation of amounts by the public servants which is not their part of official duty, sanction was not required.

4) In the result, I find no merits in the CrI.R.C and the same is accordingly dismissed.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

Date: 19.12.2018
scs

U. DURGA PRASAD RAO, J

¹ AIR 1997 SC 2102 = 1997 CriLJ 2491 (SC)