

SMT. JUSTICE T.RAJANI

Criminal Petition No.9381 of 2011

ORDER:

This petition is filed seeking to quash the proceedings in C.C. No.381 of 2008 on the file of the III Metropolitan Magistrate Court, Visakhapatnam. The offences alleged are under Sections 420, 423 IPC read with 34 IPC and 156(3) Cr.P.C., of Kancharapalem Police Station, Visakhapatnam city.

Heard the learned counsel for the petitioners and the learned Public Prosecutor for the respondent.

The learned counsel for the petitioners submits that there is allegedly an agreement of sale between the *de facto* complainant and these petitioners on 20.06.2003. The allegation is that the petitioners sold the same property to the A-3 on 05.07.2006 by way of an agreement. He also submits that the proceedings against the A-3 were quashed by virtue of the order dated 18.03.2011 passed in Criminal Petition No.4223 of 2008. But a perusal of the said order shows that the proceedings were quashed holding that merely because he has an agreement of sale in his favour, it cannot be alleged that the petitioner therein was in connivance with A-1 and A-2. He further submits that A-2, in the present case, is also no more, so also the complainant, who expired even prior to filing of this petition. The fact that the agreement of sale is executed on 20.06.2003 and no specific performance suit was filed by the complainant would suggest that there was no element of cheating as alleged by him, on the part of the petitioners and also it appears to be a civil dispute.

In view of the above, this Court opines that continuation of further proceedings against these petitioners would be an abuse of process of law.

With the above observations, this Criminal Petition is allowed and the proceedings in C.C. No.381 of 2008 on the file of the III Metropolitan Magistrate Court Visakhapatnam are hereby quashed.

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

JUSTICE T. RAJANI

Date: 25.09.2018
LSK

