

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.10999 of 2018

ORDER :

The petitioner, by name Dama Subba Rao, is A.1 in Crime No.30 of 2018 of Station House Officer, Duvvada Police Station, Vsakhapatnam City, registered for the offences punishable under Sections 387, 420 and 342 read with 34 IPC, dated 22.01.2018, from the report of the 2nd respondent/*de facto* complainant, by name, Imam Bhiby, W/o.late Meera Mohamoddin.

2. The sum and substance of the accusation in the report in registration of the crime for the offences supra is that the *de facto* complainant is aged about 86 years, there was a land in the name of her late husband Meera Mohamoddin at Kurmannapalem, Gajuwada, in Sy.Nos.35/8B, 35/9B, 35/13P, 35/14P, 35/15P, 35/16P, 35/17P and 42/1P of Ac.1.16 cents and after death of her husband pursuant to the property succeeded by her, while in possession and enjoyment, on 30.01.2013 the petitioner/A.1 along with his follower Nookaraju came to her and threatened her and her children to do away unless they execute document for the site in his favour and confined them in the house and because of the fear of harm to her and her children in particular on that day even in between 7.30 and 8.00 p.m. she obliged and he has taken her and the six family members to the Sub Registrar Office and obtained signatures and when asked about payment of any amount, he promised to pay later some amount. She further stated

that on that day itself, said A.1 in the name of his friend Gopiraju cause executed GPA for the property of Ac.1.16 cents supra and she preserved only 600 sq. yards out of it and he paid only Rs.10,00,000/- so far and they threatened to do away it is disclosed to anybody, thereby out of fear not chosen to give any report, later and even demanding for the amounts not paid including with a promise to pay to the grand daughter's marriage of the *de facto* complainant by made them to go round for three months. Hence, to take action.

3. It is not a case of the *de facto* complainant is unaware of the so-called sale transaction and GPA transaction, dated 30.01.2013, and if at all there is any fear on that day or on the next day, she and her six children some are male according to her very report could have been presented any report immediately thereafter from 30.01.2013 till 22.01.2018, for nearly five years she did not choose to report to the occurrence. Suffice to say that too being admittedly signatories to the transactions, if at all there is a remedy it is only a civil remedy for particularly the delay itself is sufficient to quash the F.I.R. without going into the merits and the law is fairly settled in this regard including from the expression of the Apex Court in **Pankaj Kumar v. State of Maharashtra**¹.

4. Accordingly, the criminal petition is allowed quashing the proceedings against the petitioner/A.1 in F.I.R.No.30 of 2018 of

¹ AIR 2008 SC 3077 = 2008 Crl.LJ 3944

Station House Officer, Duvvada Police Station, Vsakhapatnam City.

The bail bonds of the petitioner/A.1 shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15th November 2018.

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