

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.10508 OF 2017

ORDER:

This petition is filed by the petitioners-A.1 and A.3 under Section 482 Cr.P.C. seeking to quash the proceedings in crime No.320 of 2015 of Shamshabad police station, Cyberabad registered for the offences punishable under Sections 419, 420, 463, 464, 465, 466, 471, 472, 120B read with 34 IPC.

2. Heard the learned counsel for the petitioners, the learned Assistant Public Prosecutor representing the respondent-State, the learned counsel for respondents-defacto complainants and perused the record.

3. Learned counsel for the petitioners would submit that the petitioners are innocent persons and they are not instrumental in issuing of Gazette Notification; that they have nothing to do with the entries made in respect of land in survey No.136 of Chinna Golkonda village, Shamshabad Mandal, Ranga Reddy district, and a false report is made against them, and even if the allegations made in the First Information Report are accepted as true and correct, no *prima facie* case for the offences alleged is made out; that to constitute an offence punishable under Section 420 IPC, it is essential that an intention to deceive must be in existence at the time of inception; that there is no conspiracy or connivance as alleged by the defacto complainants; that the crime is registered on a reference by the learned Magistrate under Section 156 (3) Cr.P.C. and so, continuation of the impugned proceedings is nothing but abuse of process of Court, and ultimately, prays to allow the Criminal Petition.

4. Learned counsel for respondents-defacto complainants would submit that the petitioners-A.1 and A.3 along with other accused colluded together in order to grab land in survey No.136 of Chinna Golkonda village, Shamshabad Mandal, Ranga Reddy district, and they got filed a false suit on the file of the A.P. Wakf Tribunal, Hyderabad in O.S. No. 2 of 2009 and sought injunction; that the petitioners-A.1 and A.3 and other accused are responsible for manipulating the official revenue records for the year 1997-98; that an extent of Ac.0.15 guntas of land only is meant for graveyard; that the petitioners-A.1 and A.3 got each Ac.1.15 guntas, and hence, there are no grounds to quash the First Information Report at threshold stage, and ultimately, prays to dismiss the Criminal petition.

5. On the other hand, the learned Assistant Public Prosecutor supported the contentions put forth on behalf of the respondents-defacto complainants.

6. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in crime No.320 of 2015 of Shamshabad police station, Cyberabad can be quashed ?

7. In the course of submissions, it has come to the notice of this Court that Ac.2.00 guntas of land has been shown in the Gazette Notification No.6-A, dated 09.02.1989 in survey No. 117 and 136 of Golkonda Kurd village, Shamshabad Mandal, as belonging to Darga Hazrath Chiraq Ali Shah & Graveyard (Takis Faqir). If the Gazette Notification is wrong or if the defacto complainants are aggrieved by the entries therein and are claiming ownership over the disputed land, they are entitled to file appropriate suit before the competent court and

seek appropriate relief. Gazette Notification is required to be published after due notice and verification of the revenue records, and after duly recommended by the competent authority. Simply it is alleged that the petitioners-A.1 and A.3 and other accused colluded together, created and manipulated official pahanis. No specific allegation about the details of the alleged manipulation is mentioned. No revenue official is made as accused in this case. If the allegations are true, revenue officials concerned are required to be added as accused.

8. A civil suit in O.S. No.2 of 2009 is pending between the defacto complainants and the accused, which is filed by the Wakf Board claiming an extent of Ac.2.00 guntas in survey No.136 covered by Darga and graveyard. It is also contended on behalf of the petitioners-A.1 and A.3 that the petitioners-A.1 and A.3 are instrumental in identifying the wakf property and making applications to the Wakf Board to protect wakf land covered by Darga and graveyard, and in order to cow down the petitioners, this false case is foisted against them. Under these circumstances, it can safely be concluded that in order to silence the petitioners, who are agitating for protection of wakf property, private complaint was filed. There is no *prima facie* element of cheating or intention from the date of inception or conspiracy on the part of the petitioners-A.1 and A.3. Under these circumstances, there is no justification to proceed with the investigation of the instant crime. Hence, continuation of the impugned proceedings would be abuse of process of court.

9. Accordingly, the Criminal Petition is allowed. The proceedings in crime No.320 of 2015 of Shamshabad police station, Cyberabad are quashed against the petitioners-A.1 and A.3.

Miscellaneous Petitions pending, if any, in this Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

27.02.2018

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