

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.10711 of 2017

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioners/accused Nos.1 to 3, requesting to quash the proceedings in Crime No.311 of 2017 on the file of the Nellore Rural Police Station, SPSR Nellore District, registered for the offences under Sections 468, 420 read with 34 of I.P.C.

2. Heard the learned counsel for the petitioners/accused Nos.1 to 3, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioners/accused Nos.1 to 3 would submit that no forgery was committed. Already, a civil matter between the parties to the litigation on the civil side had ended in favour of the petitioners/accused Nos.1 to 3. The petitioners/accused Nos.1 to 3, being the owners of the property, sold the same under registered document. Therefore, it cannot be faulted. Moreover, the dispute between the parties is civil in nature and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the relief sought by the petitioners/accused Nos.1 to 3.

5. The point for determination is whether the request of the petitioners/accused Nos.1 to 3 can be acceded to.

6. As per the material placed on record, the de-facto complainant is running an educational institution. On

16.06.2003, he purchased house plot Nos.6,7,8,9,10,11,12,13,41 and 42 in Survey Nos.295/A, 295/B, 293, 294/B, 294, 299/1, 297/6 and 297/5, under registered document No.6160/2003, from K.Brahmanandam, who is the father of the petitioners/A.1 and A.2. The layout made by the vendor of the de-facto complainant consist 42 plots. From the date of purchase, the de-facto complainant is in possession and enjoyment of the said plots. He had also erected a signboard over the plots. His executant, K.Brahmanandam, died on 19.01.2016. Said K.Brahmanandam also sold other plots to some other persons by making roads etc., under registered sale deed/s. The sons of K.Brahmanandam, who are the petitioners/A.1 and A.2, with a *mala fide* intention, to enrich illegally as the value of the land increased, created false documents and sold plot Nos.41 and 42, showing them as plot Nos.39 and 40, to one Kandula Hari, who is the petitioner/A.3, vide registered document No.4593/2016 and 4594/2016. They have also changed the boundaries of the said plots without any right title and interest therein. The allegations leveled against the petitioners/accused Nos.1 to 3 require examination. Though there are civil cases between the parties to the litigation, when there are *mala fides*, fraud and cheating, the persons who committed those acts are required to be proceeded on criminal side also. The truth or otherwise of the allegations made are required to be determined in the course of investigation. Under these circumstances, it cannot be held that continuation of investigation is abuse of process of

law. The Criminal Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Dr.SHAMEEM AKTHER, J

06th February, 2018
Bvv

