

THE HON'BLE JUSTICE G.SRI DEVI
CRIMINAL PETITION No.4247 of 2019

ORDER:

1. The present Criminal Petition has been filed by the petitioner/A.6 with a prayer to quash all further proceedings against him in connection with Crime No.55 of 2019 of Bhongir Town Police Station, Rachakonda, which was registered for the offences punishable under Sections 109, 420, 468, 471 and 409 read with Section 34 of I.P.C.

2. The case of the prosecution is that one K.Raju, S.I. of Police, Bhongir Town Police Station, lodged a report on 09.03.2019 stating that on receipt of credible information that the associates of one Nayeem and his family members have executed a sale deed in Sub-Registrar Office, Bhongir, on 08.03.2019, in respect of land admeasuring Ac.5.00 in Sy.No.730 situated at Bhongir Town, he went to the Sub-Registrar's Office, Bhongir, and thereafter he along with the Sub Registrar, Bhongir, verified the documents presented for registration on 08.03.2019 and on examination of document No.P26/2019, it is found that one Thumma Srinivas, S/o Murali, has executed an agreement of sale-cum-GPA in favour of M/s. DVR Estate Developers and Constructions, represented by its Managing Director, Mandapally Venkateswar Rao, in respect of the said land and another document No.P27/2019 was executed by Thumma Srinivas, represented by his G.P.A. Holder M/s. DVR Estate

Developments and Constructions, represented by its Managing Director, in favour of M/s. Moksha Developers and Promoters, represented by its Managing Partner Gopi Mannam, in respect of the above land. On his discreet enquiry with document writers at Sub-Registrar Office, it is learnt that Pasham Sreenu, Nasar, Ex-Councillor, Thumma Srinivas, Haseena, W/o. Nayeem and Fayeem, brother of Nayeem, have conspired and presented the above documents for registration in respect of the said land, which was illegally occupied by Nayeem and his followers, knowing fully well that they do not have any legal right over the said land and that they hatched a plan to knock away the valuable property and to cheat the Government. It is also elicited that they have received huge amount of sale consideration. It is also stated that after the death of the said Nayeem a SIT has been formed to investigate into the land grabbed by Nayeem and his associates. In this regard, the then Station House Officer, Bhongir Town, addressed a letter, dated 23.09.2016 to the Sub-Registrar, Bhongir, stating that land in Sy.No.730 and other survey numbers of Bhongir were illegally occupied by the said Nayeem and his associates and requested the Sub-Registrar, Bhongir to stop further registrations in the above survey numbers. In spite of the same, the Sub-Registrar, Bhongir, has colluded with the above persons and entertained the document Nos.P26 and P27 of 2019. Basing on the said report, police registered a case in Crime No.55 of 2019 of Bhongir Town Police Station, initially against A1 to A5 and

subsequently, the petitioner herein, who is the Sub-Registrar, Bhongir, was shown as A-6.

3. Heard Sri Vedula Venkataramana, learned Senior Counsel, appearing for Sri P.Sri Harsha Reddy, learned Counsel for the petitioner and learned Additional Public Prosecutor appearing for the first respondent-State. Though notice served on the 2nd respondent, none appeared on his behalf.

4. It has been submitted on behalf of the petitioner that the complaint was originally filed against the executants of the sale deeds, which were given pending registration numbers (P26 and P27 of 2019) and during the course of investigation, the petitioner herein had been implicated in the aforesaid crime as Accused No.6 since he happened to be the Sub Registrar, who has assigned pending registration numbers for the aforesaid sale deeds. It is further submitted that the documents were given pending registration numbers and as a matter of fact the registration of the said documents was refused by the petitioner on 08.03.2019 i.e., on the date of submission of documents. Thus, the complaint lodged by the 2nd respondent herein against the petitioner-A6 is based on incorrect facts. It is also submitted that pursuant to the registration of the First Information Report, on the request made by the 1st respondent vide letter, dated 23.09.2016, the petitioner has been making constant correspondence with the District Registrar, Commissioner and Inspector General of Registration and Stamps,

for notifying the said land under Section 22-A of the Registration Act. It is also submitted that a Sub-Registrar can refuse registration of documents only if the registration of such documents is prohibited under Section 22-A of the Registration Act. A mere letter by the police officer does not have the effect of depriving the lawful authority of the Sub-Registrar to accept a document and deal with the same whether it is to be registered or refused for registration. What was done by the petitioner was only discharge of his official duty. It is also submitted that any criminal prosecution is to be launched in respect of the official duties, sanction for prosecution under Section 197 Cr.P.C. is mandatory and a condition precedent. The allegations in the complaint do not say that the pending documents were registered and released. Thus, roping the petitioner-Sub-Registrar into the criminal offence is an abuse of process of law.

5. Learned Additional Public Prosecutor, appearing for the first respondent-State would submit that in spite of the letter dated 23.09.2016 addressed by the Inspector of Police, Bhongir Police Station to the petitioner, who is working as Sub Registrar, Bhongir, not to entertain registration in respect of the lands in question as the same has been illegally claimed and occupied by the Gangster Nayeem and his associates, the petitioner/accused entertained the documents presented by them and issued pending registration numbers.

6. In *Prof. R.K.Vijayasathya and another v. Sudha Seetham and another*¹ the Apex Court held that “where the averments in the complaint read on its face, do not disclose the ingredients necessary to constitute offences under the Penal Code, it amounts to abuse of process of law”.

7. A perusal of the material on record would disclose that on receipt of the letter, dated 23.09.2016 from the S.I. of Police, the petitioner/A.6 has made lot of correspondence to the District Registrar, Commissioner and Inspector General of Registration and Stamps, for notifying the lands under Section 22-A of the Registration Act, but till date no such notification was received. As the petitioner happens to be the Sub-Registrar, it is his duty that when the documents presented by the executants, he has to give pending registration numbers and after verifying and examining the documents only, the said documents have to be registered.

8. According to the petitioner/A-6, the report was lodged by the 2nd respondent/complainant on 09.03.2019 and by that time he has already issued intimation of refusal to the executants of the documents vide Lr.Nos.70 and 71 of 2019, dated 08.03.2019, which shows that the 2nd respondent/complainant without verifying the said letters issued by the petitioner/A6 and without any proper investigation into the matter, falsely implicated the present petitioner as one of the accused.

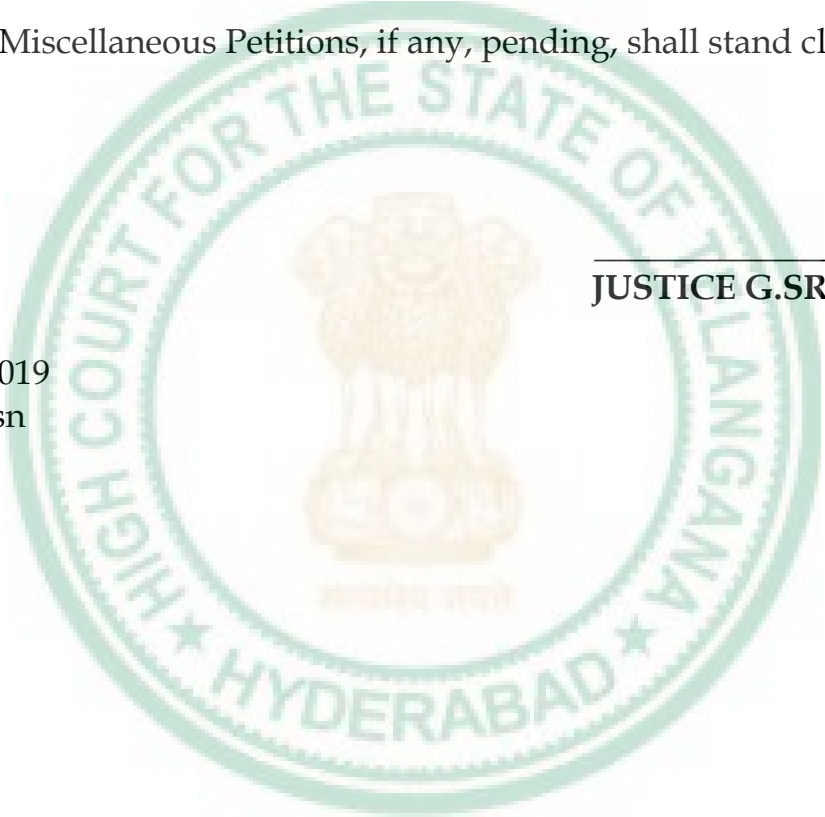
¹ (2019) 3 Scale 563

9. In view of my foregoing discussion, I find that it is a fit case to exercise inherent jurisdiction under Section 482 Cr.P.C. to quash the proceedings against the petitioner/A.6 in Crime No.55 of 2019 of Bhongir Town Police Station.

10. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/A.6 in Crime No.55 of 2019 of Bhongir Town Police Station, are hereby quashed.

11. Miscellaneous Petitions, if any, pending, shall stand closed.

15.11.2019
gkv/Gsn



JUSTICE G.SRI DEVI

