

**THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**

**CRIMINAL PETITION No.9645 OF 2018**

**ORDER:**

The petitioner–Gannamaneni Hanmantha Rao, S/o.Gopal Rao, Advocate by avocation, is A-1 among five accused in C.C.No.135 of 2013, on the file of learned Judicial Magistrate of First Class, Sircilla, Rajanna Sircilla District, which is outcome of private complaint of the 2<sup>nd</sup> respondent, that was referred to Police for investigation by the learned Magistrate and the Sircilla Police Station, Rajanna Sircilla District, on 01.08.2012, consequent to it, registered Crime No.261 of 2012 for the offences punishable under Sections 420 & 471 of Indian Penal Code (for short, 'IPC') and Section 156(3) of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'). and from the investigation, by citing nine witnesses including two Investigating Officers-L.Ws.8 & 9 and two Panch Witnesses-L.Ws.6 & 7, besides complainant-L.W.1, L.Ws.2 & 3 stated purchased from A-1 so-called disputed land and L.Ws.4 & 5-witnesses to the Document No.6331 of 2011, filed charge sheet on 12.02.2013 and from which the learned Magistrate taken cognizance for the offences supra against the accused supra. It is impugning the said calendar case proceedings, the petitioner/A-1 filed the quash petition.

2. The facts, in brief, show, from the private complaint and the police final report from the investigation in nutshell, that Gannamaneni Gopal Rao (father of petitioner/A-1) of Mushtipally Village, Sircilla Mandal, was owner and possessor of the land in Survey No.129 of Ac. 0.09 guntas of that village sold to one Laxminarayana of Sircilla Town on "Shubakrutha Nama Samvathsara Shravana Shudda Padi" (as per Telugu Almanac) and Laxminarayana while in possession and enjoyment sold the same to one Rapelli Vittal on 14.06.1973 and Rapelli

Vittal since then while in possession and enjoyment sold the same to the *de facto* complainant on 14.06.1985 and since then while he is in possession and enjoyment also recorded in revenue pahani since covered by unregistered Sale Deeds, even said Gopal Rao died long back, his son Gannamaneni Hanmantha Rao (petitioner) executed registered Sale Deed to Rapelli Vittal supra and also executed registered Sale Deeds to Sabbani Srinivas *vide* Document No.973 of 1980, dated 09.06.1980, and Sabbani Narsaiah *vide* Document No.969 of 1980, dated 09.06.1980, wherein sold the plot of land to Kadakuntla Laxmirajam, Palle Ravinder Reddy and Anagandula Srinivas in collusion and with instigation of Dasari Kumara Swamy, who all got knowledge of above referred Ac. 0.09 guntas of land in the possession of *de facto* complainant supra and knowingly and to cause loss and damage to him and without consideration, without delivery of possession, created a fabricated document No.6331 of 2011, dated 09.11.2011, and cheated him. The police final report, in reference to the facts covered by the private complaint registered as Crime supra, speaks that all accused i.e., A-1 to A-5 are residents of Mushtipally Village, L.W.1's possession was, as referred in the private complaint (FIR), recorded in the Pahani Pathrikas, covered by simple unregistered Sale Deed and by only referring to the complaint, simply stated A-1 to A-5 committed the offences punishable under Sections 420 & 471 IPC and Section 156(3) of Cr.P.C. also.

3. Heard and perused the material on record.

4. From perusal of the statement of *de facto* complainant, he reiterates the same with no improvement and nothing in the statements of L.Ws.2 & 3 better to it. So also L.Ws.4 & 5. It is not even the case of the *de facto* complainant that he obtained any pattadar passbook and

title deed for the said land of Ac. 0.09 guntas in Survey No.129. What all stated is unregistered sales. In fact, an unregistered sale for any property above Rs.100/- will not confer any right or title over the property and even a person is in possession pursuant thereto cannot get any right. With the quash petition, the petitioner filed pattadar passbook for Patta No.240 with the title deed, which includes for Survey No.129, total extent of Ac. 7.00 guntas out of several extents and the pattadar passbook and revenue title deed once in the name of the petitioner and any sale transactions made by him consequent to it including from the Pahanies, no offence of cheating made out, so also using as genuine any forged document, for nothing to show there is any forged document, if so, what is it and who forged, whose signature for not that case of somebody forged somebody's signature, at least that of *de facto* complainant.

5. Having regard to the above, as the dispute is predominantly civil in nature cannot be allowed to continue to abuse the process of law by adding any criminal flavour and thereby to sub-serve the ends of justice, the continuation of criminal proceedings, covered by the calendar case, shall not be allowed, particularly insofar as the petitioner/A-1 concerned.

6. Accordingly and in the result, the Criminal Petition is allowed and the proceedings against the petitioner/A-1 in C.C.No.135 of 2013, on the file of learned Judicial Magistrate of First Class, Sircilla, Rajanna Sircilla District, are hereby quashed.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

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**DR.B.SIVA SANKARA RAO, J**

Date: 22<sup>nd</sup> February, 2019  
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