

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

I.A.No.1 of 2022 in CrI.P.No.2183 of 2014

Between:

R.Laxmi Narayana.	And	... LR petitioner/respondent
K.Prabhu Narayana and others.		.. Respondents/petitioners

Criminal Petition No. and 2183 of 2014

K.Prabhu Narayana and another.	And	...Petitioners.
State of A.P, rep. through Public Prosecutor and another.		... Respondents.

Criminal Petition No.14527 of 2013

P.V.Ramanaiah and others.	And	...Petitioners
State of A.P rep. by its Public Prosecutor and another.		...Respondents.

DATE OF JUDGMENT PRONOUNCED: 08.09.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K.SURENDER**

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# R.Laxmi Narayana.	And	... LR petitioner/respondent
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Criminal Petition No. and 2183 of 2014

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Criminal Petition No.14527 of 2013

# P.V.Ramanaiah and others.	And	...Petitioners
\$ State of A.P rep. by its Public Prosecutor and another.		...Respondents.

% Dated 08.09.2022

! Counsel for the Petitioners: Sri N.Sridhar Reddy for
Sri N.Ranga Reddy

^ Counsel for the Respondents: Sri T.M.K.Chaitanya for R-2

> HEAD NOTE:

? Cases referred

¹ (2014) 13 Supreme Court Cases 560

2 2022 LiveLaw (SC) 153

3 (2006) 4 SCC 359

4 (2002) 3 SCC 89

⁵ (1963) 2 SCR 52

6 (1980) 2 SCR 16

7 (2007) 1 SCC 110

8 AIR 1992 SC 604

HON'BLE SRI JUSTICE K.SURENDER
I.A.No.1 of 2022 in Crl.P.No.2183 of 2014
and
CRIMINAL PETITIOIN Nos.14527 OF 2013 and 2183 of 2014

COMMON ORDER:

1. Crl.P.No.14527 of 2013 is filed by the petitioners/A1, A3, A4 and A6 and Crl.P.No.2183 of 2014 is filed by the petitioners/A2 and A5 to quash the proceedings in Cr.No.710 of 2013 on the file of P.S.Kushaiguda, Ranga Reddy District.
2. The petitioners are arrayed as A1, A2, A3, A4, A5 and A6 in the crime No.710 of 2013 on the file of PS, Kushaiguda, registered on 27.11.2013 for the offences under Sections 420, 406, 506 and 34 of IPC.
3. The *defacto* complainant filed complaint stating that he purchased 240 sq.yds of plot from Sri Bhavana Rishi Co-operative House Building Society Limited and registered under A.P.Cooperative Societies Act. The said 240 sq.yds of land was purchased by the deceased/*defacto* complainant after paying the entire sale consideration and also development charges.

The said plot was registered by the society in his favour on 21.04.2005 and he is in possession since then. It is further alleged in the complaint that the petitioners/accused who are Managing Committee with a dishonest and malafide intention prepared rectification deeds modifying the extent of plot to 200 sq.yds. The said act of reducing the plot from 240 sq.yds to 200 sq.yds is an act of criminal misappropriation and cheating. When the *defacto* complainant was performing puja in his plot, the managing committee members along with gundas have trespassed into his plot and threatened them with dire consequences.

4. Aggrieved by the illegal rectification deed that was executed, the complainant and others approached this Court vide W.P.No.22449 of 2012 & 10665 of 2010, wherein this Court passed Common Order dated 20.12.2012 declaring that the rectification deeds executed have no validity. Further, this Court observed that the aggrieved persons shall workout their remedies in accordance with law by approaching the appropriate forum.

5. Learned counsel for the petitioners submits that the *defacto* complainant and others have already approached civil court to workout their remedies and accordingly, the civil court is ceased of the issue. The case is purely civil in nature and there are absolutely no ingredients that are satisfied to attract the offence of cheating. In support of his contention, he relied on the judgment of Hon'ble Supreme Court in the case of **Balwan v. State of Haryana**¹, wherein the Hon'ble Supreme Court quashed crime on the ground that purely civil disputes were converted into criminal offence. The other judgment in the case of **Shafiya Khan @ Shakuntala Prajapati v. State of U.P**², in which the Hon'ble Supreme Court while reiterating the conditions under which criminal case can be quashed held in facts of the case that no case was made out and quashed the proceedings which were registered for the offence under Sections 494, 495, 416, 420, 504 & 506 of IPC.

¹ (2014) 13 Supreme Court Cases 560

² 2022 LiveLaw (SC) 153

6. On the other hand, learned counsel for the respondent/*defacto* complainant filed petition to permit the LRs of the deceased/*defacto* complainant to come on record to argue the case.

7. Since the case is prosecuted by the State, though there is no necessity to permit the LRs to be brought on record, on behalf of the *defacto* complainant, however, in the interest of justice, the petition i.e., I.A.No.1 of 2022 is allowed and counsel is heard.

8. Learned counsel for the 2nd respondent submits that the acts of the petitioners attract offences under Sections 420, 406, 506 r/w 34 of IPC, as the petitioners have deliberately reduced the plot size of the plots of more than 300 members. He further argued that this Court within the powers of Section 482 of Cr.P.C cannot scuttle the prosecution at the threshold and inherent powers should not be exercised in the said circumstances. The power to investigate is the exclusive domain of the police and the court interfering at the threshold of an investigation would only result in interdicting the

investigation and interfering with the powers of police in investigation. In support of his contention, he relied on the judgments in the cases of i) **Minu Kumari v. State of Bihar**³; ii) **State of Karnataka v. M.Devendrappa**⁴; iii) **State of West Bengal v. S.N.Basak**⁵; iv) **State of Bihar v. J.A.C.Saldanha**⁶; v) **M.C.Mehta (Taj Corridor Scam) v. Union of India**⁷; v) **State of Haryana v. Bhajanlal**⁸.

9. As seen from the record, the allegation against the petitioners is that they are committee members of the society and the society has registered plots in favour of its members, who are more than 300 in number. There were disputes regarding the said land for which reason, size of plots were restructured to 200 sq.yds and the amount that was taken towards 40 sq.yds was undertaken to be returned to the said plot owners. The plot owners have approached this Court and

³ (2006) 4 SCC 359

⁴ (2002) 3 SCC 89

⁵ (1963) 2 SCR 52

⁶ (1980) 2 SCR 16

⁷ (2007) 1 SCC 110

⁸ AIR 1992 SC 604

also the Civil Court to agitate their grievances of downsizing the plots from 240 sq.yds to 200 sq.yds and also seeking damages.

10. It is not the case of the *defacto* complainant that registration of plots by the society was deliberately done having knowledge that the plots would be reduced and deliberately the society has taken the entire amount for 240 sq.yds with an intention to give only 200 sq.yds. The said downsizing of the plots, even according to the complainant, the members of the society had to be adjusted and that certain part of the land was taken away during the settlement of the land issues.

11. After registration of the plot, subsequent developments have resulted in downsizing the plots, for which unforeseen circumstances, it cannot be said that these petitioners, who are the committee members of the registered society had the criminal intention from the inception to cheat the members of the society. Nothing is stated in the complaint as to how these petitioners, who are committee members have been personally

benefited from the said transactions. These petitioners were acting on behalf of the Society and exercise was done to adjust plots to the members of the society. It is not the case that the Society did not have any land or that the Society was formed to cheat the purchasers. There are no specific allegations against these petitioners as to their role in deliberately and intentionally causing wrongful loss to the purchasers. The transactions are in the nature of civil disputes. In the said circumstances, neither the ingredients of Section 406 nor 420 of IPC are attracted.

12. In the result, both these petitions are allowed and the proceedings in Cr.No.710 of 2013 on the file of P.S.Kushaiguda, Ranga Reddy, are hereby quashed.

K.SURENDER, J

Date: 08.09.2022

Note: LR copy to be marked.

B/o.kvs

HON'BLE SRI JUSTICE K.SURENDER

I.A.No.1 of 2022 in CrI.P.No.2183 of 20144

in

CRIMINAL PETITION Nos.14527 of 2013 and 2183 of 2014

Date: 08.09.2022.

kvs