

APHC010403922023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3521]

WEDNESDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 5943/2023

Between:

1. BAPIREDDY BALAJI REDDY,, S/O LAKSHMA REDDY, HINDU, AGED ABOUT 50 YEARS, D.NO.6-129, KARANALA STREET, GUDUR TOWN, S.P.S.R. NELLORE DISTRICT.
2. BAPIREDDY PADMAVATHI,, S/O BAPIREDDY BALAJI REDDY, AGED ABOUT 50 YEARS, D.NO.6-129, KARANALA STREET, GUDUR TOWN, S.P.S.R. NELLORE DISTRICT

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PUBLIC PROSECUTOR, HIGH COURT JUDICATURE, AMARAVATHI.
2. MADAM RAMAMMA, W/O LATE SANKARAIHAH, HINDU, AGED ABOUT 80 YEARS, D.NO.7-14-10A, KAMATIVARI STREET, KAVALI TOWN, S.P.S.R NELLORE DISTRICT

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

1. MAHADEVA KANTHRIGALA

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR (AP)
2. G VENKATESWARLU

The Court made the following:

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for brevity, “the Cr.P.C.”) / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity, “the BNSS”), seeking to quash the proceedings against the Petitioners/Accused Nos.3 and 4 in C.C. No.639 of 2020 on the file of the learned Additional First Class Magistrate, for the alleged offences punishable under Sections 420 and 406 read with 34 of the Indian Penal Code, 1860 (for brevity, “the I.P.C.”).

2. Sri Mahadeva Kanthrigala, learned counsel for the petitioners, submits that the dispute between the petitioners and the 2nd respondent is purely civil in nature, arising out of rival claims over the subject property, and that the same is already the subject matter of adjudication in O.S. No.187 of 2018 and O.S. No.150 of 2020, which are pending before the competent civil Court. It is submitted that the petitioners are *bona-fide* purchasers for valuable consideration under a registered sale deed dated 27.06.2018, pursuant to which lawful possession was delivered to them, and thereafter they constructed a residential house after obtaining necessary permissions and are presently residing therein.

3. It is further submitted that the complaint lodged by the 2nd respondent is an afterthought and has been instituted with mala fide intention solely to harass the petitioners and to exert pressure in the pending civil litigation. Learned counsel submits that the allegations made in the complaint do not disclose the essential ingredients of any cognizable offence and are vague,

bald and devoid of specific overt acts, thereby rendering the continuation of the criminal proceedings an abuse of process of law.

4. Therefore, it is prayed that this Court may be pleased to quash the proceedings in the interest of justice, as permitting the criminal prosecution to continue would cause irreparable hardship to the petitioners and result in a miscarriage of justice.

5. *Per contra*, Mr. A. Sai Rohit, learned Assistant Public Prosecutor, submits that the allegations made in the complaint, when taken at their face value and accepted in their entirety, clearly disclose the commission of cognizable offences punishable under Sections 420 and 406 read with 34 of 'the I.P.C.,' and therefore the petition seeking quashment at this stage is not maintainable. It is submitted that the investigation conducted by the police culminated in the filing of a charge sheet only after collecting prima facie material against the petitioners, and that the truth or otherwise of the allegations can be adjudicated only in the course of trial. The learned Assistant Public Prosecutor further submits that the petitioners, in collusion with Accused Nos.1 and 2, have dishonestly caused mutation of the property in the municipal records and thereby caused wrongful loss to the 2nd respondent, which prima facie constitutes the offences of cheating and criminal breach of trust.

6. It is further submitted that the mere existence of a parallel civil dispute does not bar criminal prosecution when the allegations disclose the essential ingredients of criminal offences, and that both civil and criminal proceedings

can proceed simultaneously in accordance with law. Therefore, it is prayed that this Court may dismiss the present Criminal Petition, as the case involves disputed questions of fact which cannot be examined in proceedings under Section 482 of 'the Cr.P.C.,' and the matter requires a full-fledged trial.

7. Sri G. Venkateswarlu, the learned counsel for the 2nd respondent submits that the averments made in the complaint, if accepted as true in their entirety, clearly constitute the offences alleged against the petitioners, and hence the present petition seeking quashment of the proceedings is devoid of merit. It is submitted that the investigation was conducted in accordance with law and, upon examination of the material collected during the course of investigation, the police have rightly laid the charge sheet, thereby establishing a prima facie case which warrants a full-fledged trial. The learned counsel further submits that the petitioners, acting in concert with Accused Nos.1 and 2, have intentionally manipulated the municipal records and dealt with the subject property in a manner causing wrongful loss to the 2nd respondent and corresponding wrongful gain to themselves, which squarely attracts the penal provisions invoked. It is further submitted that the mere pendency of civil proceedings between the parties does not absolve the petitioners of criminal liability arising out of fraudulent and dishonest acts, as civil and criminal remedies may coexist and proceed independently in accordance with law.

8. Therefore, it is urged that this Court ought not to exercise its inherent jurisdiction under Section 482 of 'the Cr.P.C.,' to scuttle the prosecution at the

threshold, since the matter involves factual controversies that must be adjudicated upon appreciation of evidence during trial.

9. In the light of the case of the prosecution and the contentions of the learned Counsel for both the sides, now the point for consideration is:

“Whether the proceedings C.C.No.639 of 2020 on the file of the learned Additional First Class Magistrate, Kavali are liable to be quashed in exercise of the inherent powers of the High Court under Section 482 of ‘the CrI.P.C./ Section 528 of ‘the BNSS?”

10. As seen from the averments in the charge sheet, it is alleged that on 04.09.2003, L.W.1 executed a Will in favour of Accused No.2, Smt. Venkata Nagamani, with a condition that Accused No.2 shall enjoy the site property during the lifetime of L.W.1 and that absolute rights over the property would accrue only after the death of L.W.1. The said Will was registered in the office of the Sub-Registrar, Kavali, vide Document No.50/2003. It is further alleged that recently, when L.W.1 approached the Municipal Office to pay property tax, she came to know that the subject site had been registered in favour of Accused No.3, Bapireddy Balaji Reddy, and his wife, Accused No.4, Padmavathi. Accused Nos.1 and 2 are alleged to have executed a registered sale deed in respect of the site property in favour of Accused Nos.3 and 4 vide Document No.2622/2018 dated 27.06.2018 for a consideration of Rs.37,29,000/-, during the lifetime of L.W.1 and allegedly in violation of the conditions of the Will. It is further alleged that Accused Nos.3 and 4 were well aware of the conditions stipulated in the Will and, in collusion with Accused Nos.1 and 2, conspired to cheat L.W.1 by obtaining registration on the basis of a Pasupu Kumkuma agreement allegedly executed by L.W.1 in favour of

Accused No.2, while suppressing the existence of the Will dated 04.09.2003. It is also alleged that L.W.4 prepared the relevant documents in the interest of Accused Nos.1 to 4.

11. Subsequently, L.W.1 is stated to have cancelled the Will dated 04.09.2003 on 29.08.2018 in the presence of witnesses L.Ws.2 and 3 before the Sub-Registrar, Kavali, vide Document No.65, Book-III, and filed O.S. No.187 of 2018 before the IV Additional District Judge, Nellore, against Accused Nos.1 to 4, and also lodged a report against them. Based on the report of L.Ws.1 and 5, a case was registered as Crime No.111 of 2019 under Sections 420 and 406 read with 34 of the I.P.C. at Kavali-I Town Police Station on 12.08.2019 at 21:00 hours, and investigation was taken up.

12. Prior to the said complaint, the 2nd respondent had instituted a suit in O.S. No.187 of 2018 on the file of the learned IV Additional District Judge, Nellore, on 24.09.2018. Subsequently, the petitioners instituted a suit in O.S. No.150 of 2020 on 05.03.2020 against the 2nd respondent. Thus, there are suit and counter-suit proceedings between the petitioners and the 2nd respondent. The suit in O.S. No.187 of 2018 was filed by the 2nd respondent seeking declaration of title and recovery of possession, whereas the suit in O.S. No.150 of 2020 was filed by the petitioners seeking permanent injunction. Both suits are presently pending consideration before the competent civil Court.

13. The petitioners allegedly purchased the vacant site from the daughter and son-in-law of the 2nd respondent, who are arrayed as Accused Nos.1 and

2, under a registered sale deed dated 27.06.2018, pursuant to which possession was allegedly delivered to them. It is stated that, after obtaining necessary permissions, the petitioners constructed a residential house and are residing therein. As on the date of purchase, the property stood in the name of Accused No.2 in the municipal records, and mutation had been effected in her favour. Except for bald and general allegations, no specific overt acts have been attributed to the petitioners in the charge sheet.

14. The Hon'ble Apex Court in **Sushil Sethi v. State of Arunachal Pradesh**¹ wherein at para No.7.6 it is held as under:

“7.6. In Joseph Salvaraj A. v. State of Gujarat (2011) 7 SCC 59, it is observed and held by this Court that when dispute between the parties constitutes only a civil wrong and not a criminal wrong, the courts would not permit a person to be harassed although no case for taking cognizance of the offence has been made out.”

15. Criminal proceedings ought not to be used as a means to intimidate parties or to achieve collateral objectives in settling civil disputes. The accused and de-facto complainant are parties to the aboe mentioned two civil suits. Therefore, they have to work out their remedies on civil side. The de-facto complainant cannot resort to criminal proceedings for taking vengeance against the petitioners/accused as the dispute is in civil nature of civil wrong and not a criminal wrong. The continuation of the proceedings in C.C. No.639 of 2020 on the file of the learned Trial Court would amount to an abuse of the process of law. This Court finds that there is merit in the present case warranting interference.

¹ (2020) 3 SCC 240

16. For the foregoing reasons, the Criminal Petition is allowed, and the proceedings in C.C. No.639 of 2020 on the file of the learned Additional First Class Magistrate are hereby quashed.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed.

DR. Y. LAKSHMANA RAO, J

Date: 19.02.2026
KMS

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION No.5943 of 2023

Date: 19.02.2026

KMS