

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Petition No.2274 of 2023

Order:

This Criminal Petition is filed, under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), by the petitioner herein\A2 in C.C.No.250 of 2021 on the file of the Court of XV Additional Metropolitan Magistrate, Bheemunipatnam, to quash the Proceedings against him in the above case.

2. The police filed charge sheet, after completion of investigation in the Crime registered based on the report given by 2nd respondent herein. The allegations in the charge sheet are as follows.

On 17.7.2019, 2nd respondent gave report to the Inspector of Police, Anandapuram Police Station. It is alleged in the report that the petitioner herein i.e. (A2) is known to her from the year 2016 and he is a Director of Avya Mines and Minerals Private Limited, Hyderabad, for which firm her husband is Geological Consultant. One Vegeshna Ramesh Raju, her husband and some others are partners in Way Granites and Trading firm. In January, 2018, A2 proposed to sell Ac.0.61 cents of land situated in Garugubilli Village, which was originally owned by her, but later sold to Avya Mines and Minerals Private Limited under an unregistered sale-deed. On 23.01.2018, A2 asked her to come to Sub-Registrar Office. She along with her husband went to the Sub-Registrar Office by 5.00 p.m., and then she was given

with some documents by A2 and she signed the documents after thorough verification and gave the same to Rudraraju Nirankara Varma. Later due to some grudges, the petitioner herein filed a cheque bounce case against her husband at Hyderabad. When her husband went to attend the Court on 14.06.2019, A1 threatened her husband stating that his days have come closure and that he did not hand over documents related to the property at Thangudubilli to Shankar Raju and that the land situated at Bhimavaram is no more his (husband of the reporter) property and if he i.e., her husband goes ahead in respect of the said land or initiates Court proceedings, he will see his end. On that both her husband and herself raised suspicion and obtained Encumbrance Certificate relating to her land bearing Survey No.5 and 5/2, which is an extent of Ac.0.44 cents situated in Bhimavaram and came to know that on 23.01.2018 the said land was registered in the name of Vegeshna Ramesh Raju. Thereby they came to know that some cheating took place and that the petitioner herein i.e. (A2) must have created the document by committing forgery of her signature on 23.01.2018, when she sold Ac.0.61 cents of land situated in Garugubilli village in favour of Inkuri Parvathi Devi. She informed the same to one Sri Nadimipalli Satyanarayana Raju who came from Hyderabad to Visakhapatnam and after examining the documents he informed that Rudraraju Nirankara Varma (A2) and Vegeshna Ramesh

Raju (L.W.5) must have committed forgery with the help of employees in Sub-Registrar Office, Anandapuram.

3. Basing on the said report, the Inspector of Police conducted investigation and filed charge sheet alleging that the A1 to A5 are liable for punishment under Section 420, 462, 471 r/w 120-B IPC and that A6 to A9 are liable for punishment under Sections 420 and 423 IPC

4. Heard the learned counsel for the petitioner/A2, learned Public Prosecutor for R1 and learned counsel for 2nd respondent.

5. Learned counsel for the petitioner contended that A1, A3, A4 and A5 contacted the Sub-Registrar and staff in the office of Sub-Registrar, Anandapuram and managed them to register false document relating to land of Pericherla Sasi Prabha (LW1) located at Bhimavaram while registering genuine document relating to Garugubili lands. Thereafter, A1 exchanged information with the petitioner herein and A5, who came to Sub-Registrar's office and then as per instructions of A1, the petitioner asked the de facto complainant to attend the Sub-Registrar's office, Anandapuram for execution and registration. Except the said accusation, there is absolutely no other allegations made against the petitioner herein are true, the offences under Sections 420, 468, 471 read with 120-B IPC have not been made out.

6. Perused the entire material on record.

7. A1 is one of the partners in M/s. Way Granite's and Trading Firm, Visakhapatnam, A2 is the Director of Avya Mines and Minerals Pvt. Ltd, Hyderabad, A3 is cousin brother of A1 and brother-in-law of A5. They are all doing Real Estate business. A1 also assists A4 in the Real Estate business of A4. A registered sale deed vide document No.351 of 2018 in respect of Ac.0.43 cents of land bearing Sy.Nos.5, 5/2 situated in Bhimavaram Town, West Godavari District is created as if it was executed by the de facto complainant/ the victim by name Pericherla Sasi Prabha (L.W.1) in favour of Vegeshna Ramesh Raju (L.W.5). It is forged one. Thereafter Vegeshna Ramesh Raju (L.W.5) sold the property to the A1 and A3 who are all residents of the same village. It is stated in the charge sheet that the investigation revealed that A1, A3, A4 and Vegeshna Ramesh Raju (L.W.5) met A2 in the Guest House and they all conspired to get registration in respect of lands belonging to Pericherla Sasi Prabha (L.W.1) the victim, as per their preplan and as per the requirement of A1, A2 furnished copies of sale deed vide document No.1716 of 2015, dated 28.10.2015 relating to the land at Garugubilli and all of them dispersed except A2 and A3 who stayed there for the night in the guest house. On 22.01.2018, A1 with the assistance of A3 got created a fake draft sale deed (Doc.No.351 of 2018, dated 23.1.2018) and by forging the signature of Pericherla Sasi Prabha (L.W.1) as if she executed, and got it registered

in favour of Vegeshna Ramesh Raju (L.W.5). In fact the entire conspiracy has been concealed and has been planned behind the back of the de facto complainant. The accused has falsely claimed that on 23.01.2018, A3 got prepared draft document relating to Garugubilli land of Ac.0.61 cents (sale document No.352 of 2018, dated 23.01.2018) and he took the same to Pericherla Sasi Prabha (L.W.1) who perused the same and returned in an envelope without remarks and A3 handed over the same to A2.

8. On 23.1.2018 at about 2.30 P.M., A1 to A3 visited Sub-Registrar Office Anandapuram and contacted the Sub-Registrar and staff and managed for the registration of the genuine document relating to Garugubilli lands and false document relating to land of Pericherla Sasi Prabha (L.W.1) located at Bhimavaram. Thereafter A1 exchanged information with the petitioner herein and A5, who came to Sub-Registrar's office and then as per instructions of A1, A2 asked the de facto complainant to attend the Sub-Registrar's office, Anandapuram for execution and registration. Vegeshna Ramesh Raju (L.W.5) authorized Indukuri Parvathi Devi (L.W.4) as the representative through A1 for registration. At about 5.00 p.m., both Pericherla Sasi Prabha (L.W.1) and her husband entered the Sub-Registrar Office, Anandapuram and both Pericherla Sasi Prabha (L.W.1) and I.Parvathi Devi (L.W.4) signed the sale deed relating to the land situated in

Garugubilli village. The staff of Sub-Registrar's office have obtained their finger prints and Irish identity. Then the power was cut off and during that time the Sub-Registrar's office informed that the Irish identity and finger prints obtained are not proper and wanted for second time wherein the fake document relating to Bhimavaram lands was placed before the Sub-Registrar who registered the same as Doc.No.351 of 2018. In respect of Garugubilli lands registered sale deed vide document No.352 of 2018 has been recorded and thereafter all of them dispersed.

9. On perusal of the entire record, it goes to show that in Sub-Registrar Office, Anandapuram, two documents have to be registered at the same time on the very same day one after the other and that one transaction that had taken place is genuine and the other transaction recorded in Doc.No.351 of 2018 is a fake and it is a fabricated document standing in the name of Vegeshna Ramesh Raju (L.W.5) of Bhimavaram. Thereafter within a short time the same property has been sold to the accused by Vegeshna Ramesh Raju (L.W.5).

10. The short question that arises for consideration is that whether there is conspiracy amongst all the accused in committing the alleged offences and whether they managed the staff in the Sub-Registrar Office in such a way that two documents have to be registered on the

same day one is with the knowledge of the de facto complainant herein and another one i.e., the document bearing No.351 of 2018, which is an agreement of sale-cum-GPA, without the knowledge of the de facto complainant. The allegation is that the said document according to prosecution is a fake and fabricated and the same has been brought into existence by the A1 and A3 as a result of conspiracy. Truth or otherwise of the said accusations has to be decided in the course of trial. Prima facie, on the face of the accusations, there is some material on record against the petitioner herein. At this stage, it is too premature for this Court to go into minute details of the case and the same has to be ascertained during the course of trial. The defences that are sought to be raised are all being questions of fact, they have to be established in the course of trial. This Court, under Section 482 Cr.P.C., is primarily concerned with the accusations that are made in the charge-sheet and other connecting material available on record, but cannot make a roving enquiry about the truthfulness or falsity of the same.

11. In view of the same, this is premature for this Court to interfere with the proceedings in C.C.No.250 of 2021 pending on the file of the Court of the XV Additional Metropolitan Magistrate, Bheemunipatnam, Visakhapatnam District. Hence the Criminal Petition is liable to be dismissed. However, considering the submissions of the learned

counsel for the petitioner, presence of the petitioner herein i.e. A2, is dispensed with before the Court below except on those dates when the learned Magistrate feels the presence of the petitioner herein i.e. A2 is necessary.

12. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any pending, in the Criminal Petition, shall stand closed.

Date:17.07.2023
Asr

K. SREENIVASA REDDY, J.

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

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Asr