

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT
THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO: 7278 OF 2021

Between:

1. Lavudya @ Rathod Kavitha Bai @ Kavitha
W/o. Prabhakar, aged about 43 years,
Occ: Govt. Teacher, Mandal Parishad Upper
Primary School, Bheemji Thanda,
Indravelli mandal, R/o.H.No.5-64,
Indravelli village & mandal, Adilabad district.
2. Lavudya Prabhakar S/o. Devuji Naik, aged about
49 years, occ: Govt Employee i.e.,
Asst. Director, Survey & Land Records,
R/o.H.No.2-7-710, Excise Colony, Hanamkonda
Warangal Urban District.
3. Bhukya Gopichand S/o. Bakkulu, aged about
49 years, occ: School Asst. R/o.H.No.2-10-727
Teachers Colony, Subedari, Hanamkonda
Warangal Urban District. Petitioners/Accused - 1 to 3

And:

1. The State of Telangana,
Rep. by Its Public Prosecutor
High Court of for the State of Telangana,
At Hyderabad. ... 1st Respondent/State
2. Karukuri Thirupathi S/o. Rajaiah, aged about
46 years, occ: Real Estate Business,
R/o. Andrabore Area, Uthkoor, Luxettipet
Municipality, Mancherla District. .. Respondent/complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to Crime No.187 of 2021 on the file of Police Station, Luxettipet, and quash the proceedings

I.A. NO: 1 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in Crime No.187 of 2021 on the file of Luxettipet Police Station

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri A.PRABHAKAR RAO, Advocate for the Petitioners and of the Assistant Public Prosecutor (TG) on behalf of the Respondent No.1 and the Respondent No.2 not appearing in person or by Advocate.

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.7278 OF 2021

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the petitioners/A.1 to A.3 seeking to quash the proceedings against them in Crime No.187 of 2021 of Luxettipet Police Station, Mancherial, registered for the offences under Sections 417, 420 r/w 34 of IPC.

2. Heard the learned counsel for the petitioners/A.1 to A.3, the learned Assistant Public Prosecutor representing the respondent No.1/State and perused the record.

3. Learned counsel for the petitioners/A.1 to A.3 would contend that the respondent No.2/*de facto* complainant has paid an amount of Rs.10,000/- only as advance but not Rs.10,00,000/-. There is agreement of sale dated 05.07.2020 to substantiate the same. It is also contended that the subject dispute between the parties is civil in nature. Having submitted for a considerable time, learned counsel for the petitioners/A.1 to A.3 made a request to this Court to direct the investigating agency to follow the procedure prescribed under Section 41A of Cr.P.C and to follow the guidelines prescribed by the Honourable Apex Court in **Arnesh Kumar v. State of Bihar and another**¹ on the ground that the maximum sentence of imprisonment prescribed for the alleged offences is below Seven (7) years.

¹ AIR 2014 SC 2756

4. The learned Assistant Public Prosecutor representing the respondent/State conceded the request of the learned counsel for the petitioners/A.1 to A.3.

5. It is pertinent to state that the subject matter requires thorough investigation with regard to the allegations made in the report dated 09.09.2021. In the given circumstances of the case, it is not appropriate to quash the proceedings against the petitioners/A.1 to A.3. However, in view of the request made on behalf of the petitioners/A.1 to A.3, the Station House Officer, Luxettipet Police Station, Mancherial, is directed to follow the procedure laid down under Section 41A of Cr.P.C. before arresting the petitioners/A.1 to A.3 and strictly adhere to the guidelines formulated by the Honourable Apex Court in **Arnesh Kumar's** case (supra).

6. With the above observations and direction, this Criminal Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

//TRUE COPY//

Sd/-K.VENKAIAH
ASSISTANT REGISTRAR
Go
SECTION OFFICER

To

1. The Judicial First Class Magistrate, at Luxettipet.
2. The Station House Officer, Mancherial District, Luxettipet Police Station.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
4. One CC to Sri A.Prabhakar Rao, Advocate (OPUC)
5. Two CD Copies
6. One Spare Copy

Kj.

HV

HIGH COURT

DATED:30/09/2021



ORDER

CRLP.No.7278 of 2021

DISPOSING OF THE CRL.P.

8
18/10/21
Hv4