

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**FRIDAY ,THE TWENTY NINETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**



PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 8295 OF 2022

Between:

1. Yegineni Rama Devi, (in FIR wrongly mentioned as W/o.Nageswara Rao, Yegineni Rama Devi) Aged about 49 years, R/o.Neredupalli Village, Vinjamuru Mandal, SPSR Nellore District.
2. Yegineni Nageswara Rao,, S/o.Tirupataiah, Aged about 54 years, R/o.Ncredupalli Village, Vinjamuru Mandal, SPSR Nellore District.


...PETITIONERS/ACCUSED 1 & 2

AND

1. The State Of Andhra Pradesh, Rep. by its Public Prosecutor, High Court Buildings, Amaravati.
2. Mulpuri Praveen Kumar,, S/o.Vijaya Kumar, Aged about not know to Petitioners, R/o.33/4, 8th cross, Reliable Residency, Haralur Road, Bengaluru, Karnataka State

...RESPONDENT NO.2

DEFACTO COMPLAINANT



Petition filed under Section 482 of Cr.P.C., to quash the proceedings against the Petitioners in Crime No.86/2022 of Vinjamur Police Station, SPSR Nellore District.

I.A. NO: 2 OF 2022

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 grant stay of all further proceedings in Crime No. 86/2022 of Vinjamur Police Station, SPSR Nellore District.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri BOLLA VENKATA RAMA RAO, Advocate for the Petitioners and the Public Prosecutor (AP) on behalf of the Respondent No.1 and of Sri G Yaswanth, Advocate for the Respondent No.2

The Court made the following ORDER :

APHC010564242022



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

[3396]

FRIDAY ,THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 8295/2022

Between:

Yegineni Rama Devi and Others

...PETITIONER/ACCUSED(S)

AND

The State Of Andhra Pradesh and
Others

...RESPONDENT/COMPLAINANT(S)

Counsel for the Petitioner/accused(S):

1.BOLLA VENKATA RAMA RAO

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR (AP)

2.YASWANTH GADE

The Court made the following:

ORDER:

The instant petition under Section 482 of the Code of Criminal Procedure, 1973 (in short, "Cr.P.C.") has been filed by the Petitioners/ Accused Nos.1 and 2 seeking quashment of the proceedings against them in Crime No.86/2022 of Vinjamur Police Station, SPSR Nellore District for the

offences punishable under Sections 120b, 420, 465, 467, 471 r/w 34 of Indian Penal Code, 1860¹.

2. Heard Sri B.V.Rama Rao, learned counsel for the petitioners, Sri Yashwanth Gade, learned counsel for the respondent No.2 and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor on behalf of the State.

3. Learned counsel for the petitioners would submit that the case has been lodged against the petitioners for the offences punishable under Sections 120b, 420, 465, 467, 471 r/w 34 of IPC. Learned counsel for the petitioners would submit that it is alleged against the petitioners that one Mr.M.Devadas who is the brother of Mrs. M. Prasanna Kumari who are the joint owners of the subject property in collusion with the present petitioners created the false agreement of sale dated 14.12.1996 by forging the signatures of Mrs.M. Prasanna Kumari as if she along with her brother Mr.M. Devadas sold an extent of Ac.6.22 cents in Sy.No.535/2 and Ac.3.68 cents in Sy.No.535/1 of Vinjamuru Village. Learned counsel would further submit that that by virtue of the alleged agreement of sale, the petitioners have obtained Pattadar Passbook. The complainant herein is the nephew of Late Mrs.M.Prasanna Kumari, who got G.P.A from the legal heirs of Late Mrs.M.Prasanna Kumari and lodged this criminal complaint against the petitioners. Learned counsel would further submit that the owner of the

¹ For short "I.P.C"

property i.e., Mrs. M.Prasanna Kumari died on 16.03.2006. The legal heirs of Mrs. M.Prasanna Kumari filed civil suit for declaration of title and also for cancellation of agreement of alleged sale dated 14.12.1996 vide O.S.No.205 of 2015 which is pending on the file of V Additional District Judge Court, Nellore. Learned counsel would further submit that the civil suit is very much pending before the competent civil court. Now the complainant who is the GPA holder of the plaintiffs in the civil suit comes up with the criminal case against the petitioners. Learned counsel would further submit the pleadings in the civil suit would show that Mr.M.Deva Das who is the brother of Mrs. M.Prasanna Kumari got forged the signature of Late Mrs.M.Prasanna Kumari and executed the agreement of sale. Learned counsel finally submits that by suppressing the pendency of the civil suit i.e., O.S.No.205 of 2015, the present criminal case has been lodged against the petitioners and continuation of criminal proceedings is mere abuse of process of law.

4. Contrasting the same, learned counsel for the respondent No.2 vehemently opposes the petition stating that the respondent No.2 herein is a GPA holder of the plaintiffs in O.S.No.205 of 2015. After the death of Late Mrs.M.Prasanna Kumari, her children became owners of the property. The agreement of sale dated 14.12.1996 has been created by forging the signatures of Late Mrs.M.Prasanna Kumari by giving anti date. Learned counsel for the respondent No.2 would further submit that the petitioners obtained pattadar passbooks with the aid of forged agreement of sale. The

respondent No.2 challenged the same before the RDO. The RDO clearly observed that the Tahasildar has not followed the procedure before issuing Pattadar Passbook and there is difference in the signatures of late Mrs.M.Prasanna Kumari on the agreement of sale as well as ID card. Learned counsel would further submit that the petitioners preferred revision against the order of the RDO which was dismissed. Petitioners preferred writ petition which pending before this court. Learned counsel for the respondent No.2 would submit that simply because there is a delay of seven days in preferring this criminal complaint from the date of filing of civil suit and the delay of fifteen years in lodging the criminal complaint after the death of late Mrs. M.Prasanna Kumari and the delay of twenty five years from the date of alleged agreement of sale is not a ground for quashment of the case. Learned counsel would further submit when the fraud played Mr.M.Deva Das came to the notice of the legal heirs of late Mrs.M.Prasanna Kumari in the year 2015 and they filed the civil suit for declaration of title as well as cancellation of agreement of sale, Learned counsel for the respondent No.2 would further submit that the complainant has entered the picture by virtue of the GPA which was executed by the plaintiffs in O.S.No.205 of 2015.

Determination by the Court:

5. A bare perusal of Section 482 makes it clear that the Code envisages that inherent powers of the High Court are not limited or affected so as to make orders as may be necessary; (i) to give effect to any order under the

Code or, (ii) to prevent abuse of the process of any Court or, otherwise (iii) to secure ends of justice. A court while sitting in Section 482 jurisdiction is not functioning as a trial court, court of appeal or a court of revision. It must exercise its powers to do real and substantial justice, depending on the facts and circumstances of the case. These powers must be invoked for compelling reasons of abuse of process of law or glaring injustice, which are against sound principles of criminal jurisprudence.

6. At this juncture, it is relevant to refer the Judgment in **Mohammad Ibrahim and others v. State of Bihar and another**² the Hon'ble Apex Court has held as under:

"This Court has time and again drawn attention to the growing tendency of complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurize parties to settle civil disputes..."

(emphasis supplied)

7. In another decision reported **Mitesh Kumar J. Sha v. State of Karnataka and others**³ the Hon'ble Apex Court has held as under:

² 2009(8)SCC751

³ 2021SCCOnlineSC976

"41. Having considered the relevant arguments of the parties and decisions of this court we are of the considered view that existence of dishonest or fraudulent intention has not been made out against the Appellants. Though the instant dispute certainly involves determination of issues which are of civil nature, pursuant to which Respondent No. 2 has even instituted multiple civil suits, one can by no means stretch the dispute to an extent, so as to impart it a criminal colour. As has been rightly emphasized upon by this court, by way of an observation rendered in the case of M/s Indian Oil Corporation Vs. M/s. NEPC India Ltd & Ors.7, as under :-

"14. While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law."

42.It was also observed:-

"13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors....There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."

(emphasis supplied)

8. This Court in **Telikapalli Padmavathi v.State**⁴, while dealing with a quash petition concerning Section 420, observed as follows;

⁴ 2023 SCC ONLINE AP 3658

"16. In Gulam Mustafa (supra), the Hon'ble Supreme Court having expounded the law on the point, held thus;

"36. What is evincible from the extant case-law is that this Court has been consistent in interfering in such matters where purely civil disputes, more often than not, relating to land and/or money are given the colour of criminality, only for the purposes of exerting extra-judicial pressure on the party concerned, which, we reiterate, is nothing but abuse of the process of the court. ..."


9. A perusal of record shows, the suit was filed by the legal heirs of the late Mrs.M.Prasanna Kumari with the same set of facts in the present complaint. The suit is pending before the competent civil court. Nothing has been added in the present case except the very same contents in the said suit.

10. In the light of the judgments referred supra and the facts and circumstances of the present case, unless it is shown that the said agreement of sale which is a subject matter in the civil suit is created by forging the signature of late Mrs.M.Prasanna Kumari, continuing criminal proceedings against the petitioners is mere abuse of process of law. When the matter is pending before the competent civil court, it is at premature stage to come to the conclusion that the subject agreement of sale is a forged one.

11. In that view, the petition is allowed. The case against the petitioners in Crime No.86 of 2022 is hereby quashed. However, it is left open to the

complainant to recourse his remedy at appropriate stage after conclusion of the trial.

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

SD/- G.HELAKA NAIDU
ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

To

1. The Station House Officer, Vinjamur Police Station, SPSR Nellore District.
2. One CC to Sri. Bolla Venkata Rama Rao, Advocate [OPUC]
3. One CC to Sri. G Yaswanth, Advocate [OPUC]
4. Two CCs to the PUBLIC PROSECUTOR, High Court of Andhra Pradesh at Amaravathi. [OUT]
5. Three CD Copies
TAC

HIGH COURT

DATED:29/11/2024

ORDER

CRLP.No.8295 of 2022



ALLOWING THE CRIMINAL PETITION