



**IN THE HIGH COURT OF ANDHRA PRADESH, AMARAVATI**

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**CRIMINAL PETITION No. 6934 of 2015**

**Between:**

1. Lokireddy Satyanarayana Reddy,  
S/o.Appi Reddy, Aged about 58 years, Hindu,  
Machavaram, Vijayawada, Krishna District.
2. Lokireddy Seshumani,  
W/o. Lokireddy Satyanarayana Reddy,  
Aged about 50 years, Hindu, Machavaram,  
Vijayawada, Krishna District.
3. Pamulapati Aparna, W/o.Srinivasulu Reddy,  
Aged about 35 years, Hindu, Machavaram,  
Vijayawada, Krishna District.
4. Lokireddy Mohana Krishna Reddy,  
S/o.Lokireddy Satyanarayana Reddy,  
Aged about 30 years, Hindu, Machavaram,  
Vijayawada, Krishna District.
5. M.Madhavi Latha, W/o.M.Venkata Reddy,  
Aged about 39 years, Occupation: Business,  
Maksi Educational Services, R/o.D.No.7-1-276/19,  
Suprabhath Nagar, Balkampet,  
Hyderabad - 500018.

... Petitioners/Accused Nos.1, 2, 3, 5 & 6

**And**

1. The State of A.P., Represented by Public Prosecutor,  
High Court of A.P., Amaravati.
  2. Velagapudi Vimalamma, W/o.Late Venkateswara Rao,  
Hindu, Aged about 74 years, Yanamalakuduru,  
Penamaluru Mandal, Krishna District.
- .. Respondents

DATE OF JUDGMENT PRONOUNCED: **14-06-2023**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**

1. Whether Reporters of Local Newspapers  
may be allowed to see the judgment? Yes/No



2. Whether the copies of judgment may be marked to Law Reporters / Journals? Yes/No
3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

**DUPPALA VENKATA RAMANA, J**



**\* THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**

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- .... Respondents

**! Counsel for Petitioners** : Sri B.Vijaya Bhaskar

**^ Counsel for Respondents** : Asst.Public Prosecutor (State)  
Sri P.S.P.Suresh Kumar  
-2<sup>nd</sup> respondent



**< Gist:**

**> Head Note:**

**? Cases referred:**

1. 2015 (3) ALT (CrI.) 26 (SC)
2. AIR 1992 SC 604
3. 2009 (8) SCC 751
4. 2013 (11) SCC 673
5. 2021 SCC Online SC 976
6. 2021 SCC Online SC 1045
7. 2021 SCC Online SC 206
8. 2011 LawSuit (SC) 812

This Court made the following:

**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA****CRIMINAL PETITION No. 6934 of 2015****ORDER:**

This Criminal Petition is filed by the Petitioners/Accused Nos.1 to 3, 5 and 6, under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking to quash the proceedings in C.C.No.51 of 2013 on the file of the Court of IV Chief Metropolitan Magistrate, Vijayawada.

2. The private complaint filed by the 2<sup>nd</sup> respondent herein was referred to Patamata Police, Vijayawada, by the concerned Jurisdictional Magistrate, Vijayawada, under Section 156(3) Cr.P.C for investigation and report. On the basis of the said complaint, a case in Crime No.65 of 2009 was registered by Patamata Police Station, Vijayawada for the offences punishable under Sections 420, 468 and 471 read with 34 IPC against the accused. The crime was investigated and eventually having found *prima facie* evidence against all the accused regarding their complicity in the commission of the said offences, the Investigating Officer filed a charge sheet and the learned IV Chief Metropolitan Magistrate, Vijayawada, took the case on file and numbered as C.C.No.51 of 2013 for the offence under Sections 420, 468 and 471 read with 120-B IPC.



3. The 2<sup>nd</sup> respondent is the *de facto* complainant. She stated that her husband V.Venkateswara Rao got the property an extent of Ac.1.01 cents of land from his ancestors and an extent of Ac.0.09 cents from his paternal aunt in R.S.Nos.476/5 and 476/4 respectively through a Will. Thereafter her husband offered to sell the property to an extent of Ac.1.01 cents to B.Janardhan Reddy for a sale consideration of Rs.1,31,000/- and executed an agreement of sale dated 16.01.1981 and part of sale consideration of Rs.62,310/- was paid on different dates and later failed to perform his part of the contract and the matter was placed before the elders and entered into a Memorandum of Understanding on 22.07.1986 between them and said Janardhan Reddy agreed to purchase Ac.0.51 cents on or before 31.01.1987 and the husband of the 2<sup>nd</sup> respondent executed another agreement of sale in favour of G.Koteswari and three others on 22.07.1986 to an extent of 321.44 square yards. Thereafter, the husband of the 2<sup>nd</sup> respondent executed a General Power of Attorney in favour of the petitioner/1<sup>st</sup> accused on 04.05.1987 under registered Doc.No.707 of 1987. Subsequently, disputes arose between them and the husband of the 2<sup>nd</sup> respondent cancelled the said GPA on 11.07.1988.



4. While the matter stood thus, the husband of the 2<sup>nd</sup> respondent died intestate on 09.08.1989. Thereafter, the 2<sup>nd</sup> respondent entered into an agreement of sale dated 11.10.1990 for an extent of Ac.0.03 cents of land in R.S.No.476/5 of Gunadala Village. At that time, the petitioners/Accused 1 and 2 incorporated certain false recitals in the agreement of sale. The 2<sup>nd</sup> respondent executed a power of attorney dated 11.10.1990 in favour of the petitioner/1<sup>st</sup> accused authorizing him to execute sale deeds on her behalf. Subsequently, the 2<sup>nd</sup> respondent cancelled the GPA on 12.07.1991 which was given to the petitioner/1<sup>st</sup> accused and the same was registered *vide* Doc.No.1143/4 of 1991 and made a publication in Andhra Jyothi daily newspaper about the cancellation of GPA.

5. The Petitioner/A.2 filed a suit in O.S.No.509 of 1992 on the file of the Court of I Additional Senior Civil Judge, Vijayawada for specific performance of agreement of sale dated 11.10.1990 and the said suit was decreed on 06.02.2001. The petitioner/3<sup>rd</sup> accused is the daughter of the petitioners/Accused 1 & 2 and having knowledge about the cancellation of GPA, on 23.10.2000 the petitioner/2<sup>nd</sup> accused executed a document in favour of the petitioner/3<sup>rd</sup> accused in order to create title over the property belongs to the 2<sup>nd</sup>



respondent. Petitioners/A.1 and A.2 executed a registered sale deed in favour of Dr.G.Surendra Babu for an extent of 242.2 sq.yards of house site situated in R.S.Nos.476/5 and 476/6, knowing fully well that the GPA given by the 2<sup>nd</sup> respondent was cancelled and is not in existence. A.1 to A.6, in order to grab the property of the 2<sup>nd</sup> respondent, forged the signatures of the husband of the 2<sup>nd</sup> respondent and created a forged agreement and executed sale deeds in favour of Dr.G.Surendra Babu and in fact no agreement of sale was executed by the husband of the 2<sup>nd</sup> respondent in favour of 2<sup>nd</sup> accused for an extent of Ac.0.42 cents of land in R.S.No.476/5 of Gunadala Village.

6. All the accused with a common intention, at the inception, created fabricated documents by forging the signatures of the husband of the 2<sup>nd</sup> respondent and has shown them as genuine. The crime was investigated and eventually having found a *prima facie* case against all the accused regarding their complicity in the commission of said offences, the Investigating Officer filed a charge sheet in the trial Court and the said case is now pending. Aggrieved by the same, the petitioners, who are A.1 to A.3, A.5 and A6 filed the present criminal petition seeking to quash the proceedings in C.C. No.51 of 2013 against them.





7. Heard Sri B.Vijaya Bhaskar, learned counsel for the petitioners, learned Assistant Public Prosecutor for the 1<sup>st</sup> respondent-State and Sri P.S.P.Suresh Kumar, learned counsel for the 2<sup>nd</sup> respondent.

8. Fulminating the complaint allegations as false and motivated, the learned counsel for the petitioners would firstly argue that the complaint allegations, even if, are accepted to be true, they would disclose the civil disputes between the parties and in fact, a civil suit is pending between both the parties. O.S.No.509 of 1992 on the file of Additional Senior Civil Judge, Vijayawada was filed by the petitioner/A.2 against the 2<sup>nd</sup> respondent for specific performance and the said suit was decreed. He would further submit that the 2<sup>nd</sup> respondent filed O.S.No.280 of 2010 on the file of the Court of Additional District Judge at Vijayawada, Krishna District for recovery of possession of an extent of Ac.0.42 cents out of Ac.1.01 cents in R.S.No.476/5 of Gunadala Village and the said suit is pending. Further, he would submit that, no doubt, the allegations in the complaint disclose the civil transactions and moreover, this Court has at innumerable instances expressed its disapproval for imparting criminal colour to a civil dispute. He would further submit that the learned Magistrate ought not to have



entertained the complaint and forwarded to the Police for investigation. He would vehemently argue that the complaint allegations even if untraversed, would not disclose the offence under Sections 420, 468 and 471 read with 120-B IPC for the reason that execution of a document by a person in respect of the property to which he is not the owner, would not attract those offences. He would further submit that the continuation of criminal proceedings is nothing but an abuse of process of the Court. Therefore, he prays to quash the proceedings against the petitioners. Thirdly, the learned Magistrate has simply forwarded the complaint to the Police under Section 156(3) Cr.P.C without clearly mentioning in his Order as to what facts and circumstances have weighed in his mind for referring the complaint to the Police without complying with the guidelines in **Priyanka Srivastava Vs. State of U.P.**,<sup>1</sup>. The complainant is required to file a sworn affidavit in support of the allegations of the complaint and in the instant case, since the complainant did not file the sworn affidavit, the learned Magistrate ought not have forwarded the complaint to the Police. Thus, he prays to quash the proceedings.

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<sup>1</sup> 2015 (3) ALT (CrI.) 26 (SC)



9. Learned counsel for the 2<sup>nd</sup> respondent and the learned Assistant Public Prosecutor, in unison, argued that the allegations in the complaint amply disclose that the offences committed by all the accused, inasmuch as, they have executed the sale deeds in respect of Ac.1.01 cents of land without having any right, title or interest therein, with the aid of such sham and collusive documents and Petitioners/Accused Nos.3 and 4, knowing fully well that they are not the owners of the property, created forged documents, showed them as genuine and sold the property to third parties, illegally and created mischief. The allegations in the complaint disclose that the offences were committed by all the accused collectively, and the same was investigated by the investigating agency and the charge sheet was filed against the petitioners. It is further argued that, mere pendency of the civil suit, is not a bar for entertaining the criminal proceedings. If at all the acts of the accused disclose criminal offence, in addition to the actionable civil wrong, the criminal proceedings are maintainable against them, since the *prima facie* case is made out and there is substantial material available to proceed against them and prayed to dismiss the criminal petition.



10. Now the point for determination is:

Whether there are any merits in the criminal petition to allow?

POINT:

11. In the landmark judgment of **State of Haryana & Others Vs. Ch.Bhajanlal and Others**<sup>2</sup> the Hon'ble Apex Court has laid down the following guidelines as to when the High Court can exercise its plenary powers under Section 482 Cr.P.C to quash the proceedings to prevent abuse of process of the Court. They are,

*(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*

*(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;*

*(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;*

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<sup>2</sup> AIR 1992 SC 604



*(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;*

*(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*

*(6) where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;*

*(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

12. Applying this dictum to the instant factual matrix, it can safely be concluded that the present case clearly falls within the ambit of the categories analyzed in the above judgment that the criminal proceedings must not be used as an instrument of harassment. As can be seen, when disputes between the parties constitute 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.

13. In **Mohammad Ibrahim and others Vs. State of Bihar and another**<sup>3</sup> 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 pressurise parties to settle civil disputes.....”*

14. In **Paramjeet Batra Vs. State of Uttarakhand and others**<sup>4</sup> the Hon'ble Supreme Court of India has held as under:

*“7. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil*

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<sup>3</sup> 2009 (8) SCC 751

<sup>4</sup> 2013 (11) SCC 673



*remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court.”*

15. In the instant case, a given set of facts may make out a civil wrong. Therefore, a dispute of a civil nature has been given colour of a criminal offence. Further, it is found that the criminal proceedings were maliciously initiated with an ulterior motive to settle the civil disputes. In such a situation, this Court has no hesitation to quash the criminal proceedings.

16. In **Mitesh Kumar J.Sha Vs. State of Karnataka and others**<sup>5</sup> the Hon’ble Apex Court has held as under:

*“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 emphasised 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*

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<sup>5</sup> 2021 SCC Online SC 976



*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 though criminal prosecution should be deprecated and discouraged.”*

17. In the present case of this nature, even if the complaint allegations are taken into consideration, one cannot conclude *prima facie*, that the accused had committed the offence. It is a cardinal principle that when the complaint allegations essentially disclose a civil dispute and not a criminal offence, the continuation of the criminal proceedings, in view of the above-





referred judgments, would amount to an abuse of process of the Court.

18. A perusal of the material on record would show that the petitioner/A.2 filed a suit against the 2<sup>nd</sup> respondent for specific performance and the said suit was decreed. The material papers filed by the counsel for the petitioners would show that the 2<sup>nd</sup> respondent filed another suit in O.S.No.280 of 2010 against Accused Nos.1 to 6 and Dr.Gudapati Surendra Babu for recovery of possession of the plaint schedule property to the extent of Ac.0.42 cents equivalent to 2016 sq.yards in Sy.No.476/5 of Gunadala Village and the said suit is pending. The Investigating Officer investigated the case and suppressed the suits filed and pending between the parties. Thus, it is needless to emphasize that in the above suit, the fundamental issue to be decided is whether the 2<sup>nd</sup> respondent has a right and title over the property for an extent of Ac.0.42 cents in Sy.No.476/5 of Gunadala Village. It is a trite law and the Civil Court alone is competent to adjudicate upon the *bona fide* dispute of title between the parties.

19. In the present case, the 2<sup>nd</sup> respondent is required to file a sworn affidavit in support of the complaint allegations, as observed by the Hon'ble Apex Court. Since the 2<sup>nd</sup> respondent



did not file the sworn affidavit, the learned Jurisdictional Magistrate ought not to have forwarded the complaint to the Police.

20. In **Priyanka Srivastava & another Vs. State of U.P** the Hon'ble Apex Court held as follows:

*“..... where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores. We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that on the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke*



*the authority of the Magistrate under Section 156(3)*  
 .....

21. In *Priyanka Srivastava's case (supra)*, the Hon'ble Supreme Court of India held that (a) a private complaint should be supported by a proper affidavit and (b) before an application under Section 156(3) Cr.P.C is ordered, there should be prior applications under Section 154(1) and 154 (3) Cr.P.C. Both these aspects should be spelt out in the applications and necessary documents should be filed. In the instant case, it is clear that the complaint was directly filed and there is no proof to show that the prior applications under Section 154(1) and 154(3) Cr.P.C were actually filed. Due to non-application of mind, in a routine manner in which the complaint has been referred to the Police for investigation, failure to notice is mandated in *Priyanka Srivastava's case (supra)*, this Court has come to a conclusion that continuation of the criminal proceedings against the petitioners would amount to an abuse of process of law.

22. In contrast, the 2<sup>nd</sup> respondent filed a suit in O.S.280 of 2010 for recovery of possession against the petitioners/accused and a third party and the said suit is pending. Another suit in O.S.No.509 of 1992 filed by the petitioner/Accused No.2 against the 2<sup>nd</sup> respondent for specific performance was decreed. In such



circumstances, it is a trite law and the Civil Court alone is competent to adjudicate upon the *bona fide* dispute between the parties. As the civil suit is pending adjudication, wherein the title of the 2<sup>nd</sup> respondent is an issue for recovery of possession, at this stage, even if the complaint allegations are taken into consideration, one cannot conclude *prima facie*, that the accused have committed the offence. It is a cardinal principle that when the complaint allegations essentially disclose a civil dispute pending between the parties and not a criminal offence, continuation of criminal proceedings would amount to an abuse of the process of Court.

24. Though the learned counsel for the 2<sup>nd</sup> respondent relied on the judgments in **Jitul Jentilal Kotecha Vs. State of Gujarat and others, 2021 SCC Online<sup>6</sup>, Priti Saraf Vs. State (NCT of Delhi)<sup>7</sup>, and Padal Venkata Rama Reddy @ Ramu Vs. Kovvuri Satyanarayana Reddy & Others<sup>8</sup>** having regard to the facts of the case and the material on record on hand, this Court is of the opinion that the said judgments are not relevant to this case of nature, as the 2<sup>nd</sup> respondent filed a suit in O.S.No.280 of 2010 for recovery of possession alleging that the

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<sup>6</sup> 2021 SCC OnLine SC 1045

<sup>7</sup> 2021 SCC OnLine SC 206

<sup>8</sup> 2011 LawSuit (SC) 812



petitioners/accused have forged the signatures and created fabricated documents. When the issue as to the genuineness of the documents is pending for consideration in a civil suit, this Court is of the view that the criminal proceedings ought not have been allowed to continue as it would prejudice the interests of the parties and the stand taken by them in the civil suit.

25. In view of the above discussion, this Court is of the opinion that the matter appears to be purely civil in nature and there appears to be no cheating or forgery. The present allegations in the charge sheet, is an abuse of the process of law. The purely civil dispute is sought to be given a colour of a criminal offence to wreak vengeance against the petitioners/Accused Nos.1 to 3, 5 and 6 and it does not meet the strict standard of proof required to sustain a criminal accusation.

26. Having regard to the principles laid down by the Hon'ble Apex Court in the cases referred above, and in view of the pendency of the civil suit between the parties with regard to the same subject property, I am of the considered view that continuation of criminal proceedings against the Petitioners/Accused Nos.1 to 3, 5 and 6 amounts to abuse of process of Court.



27. Thus, in the backdrop of the discussion that went on, this Court is of the view that the inherent powers under Section 482 Cr.P.C are liable to be invoked to quash the proceedings. It is found that the criminal proceedings were maliciously instituted with an ulterior motive to settle the civil disputes.

28. Therefore, this Court is of the view that the initiation of proceedings is undesirable and therefore, the proceedings initiated against the petitioners are liable to be quashed.

29. Resultantly, the Criminal Petition is allowed and the proceedings initiated against the Petitioners/Accused Nos.1 to 3, 5 and 6 in C.C.No.51 of 2013 pending on the file of IV Chief Metropolitan Magistrate, Vijayawada, are hereby quashed.

As a sequel, the miscellaneous petitions, pending if any, shall stand disposed of.

**JUSTICE DUPPALA VENKATA RAMANA**

14.06.2023

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**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**

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