

**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA****CRIMINAL PETITION No. 7216 of 2013****ORDER:**

In this Criminal Petition filed under Section 482 of Cr.P.C, the petitioners/A.1 to A.4 seek to quash the proceedings against them in Crime No.74 of 2013 of Alipiri Police Station, Tirupati Urban, for the offence under Sections 464, 465, 467, 471 and 420 read with 34 IPC.

2. The private complaint filed by the 2<sup>nd</sup> respondent herein, was referred to the Police by the learned IV Additional Judicial Magistrate of First Class, Tirupati under Section 156(3) Cr.P.C for investigation, which was registered as Crime No.74 of 2013 and investigation is reported pending.

3. The brief facts of the complaint are that the complaint mentioned A to C schedule properties belong to the 2<sup>nd</sup> respondent and the 1<sup>st</sup> petitioner/A.1 filed a suit for specific performance in O.S.No.9 of 2013 under agreement of sale dated 02.07.2009 executed by the 2<sup>nd</sup> respondent for a sale consideration of Rs.15.00 lakhs and paid a sum of Rs.10.00 lakhs on the date of agreement of sale as advance and subsequently, paid Rs.4.00 lakhs on 25.03.2010 and made endorsement on the rear side of the agreement of sale and the



balance sale consideration of Rs.1.00 lakh will be paid at the time of the registration. It is further alleged that the 2<sup>nd</sup> respondent never executed any agreement of sale in favour of the 1<sup>st</sup> petitioner/A.1, and figured the petitioners 2 and 3/A.2 and A.3 as attestors and 4<sup>th</sup> petitioner/A.4 as scribe of the agreement of sale and all the petitioners/A.1 to A.4 with connivance, forged the alleged agreement of sale and with a dishonest intention, showed the same as a genuine document, in order to grab away the subject property. All the accused, with a common intention, at the inception, created a forged and fabricated document by forging the signature of the 2<sup>nd</sup> respondent and shown the same as genuine. When the 2<sup>nd</sup> respondent approached the Police and presented a report, they refused to receive the same stating that it is purely a civil dispute. Therefore, the 2<sup>nd</sup> respondent presented a private complaint before the IV Additional Judicial Magistrate of First Class, Tirupati and the same was forwarded to the Police. A case in Crime No.74 of 2013 was registered by Alipiri Police Station, Tirupati and the same is now pending for investigation. Aggrieved by the same, the petitioners/A.1 to A.4 filed the present criminal petition seeking to quash the proceedings in Crime No.74 of 2013 of Alipiri Police Station, Tirupati.



4. Heard Sri Y.V.Ravi Prasad, learned counsel for the petitioners/A.1 to A.4 and Sri P.M.Mithileswara Reddy, learned Assistant Public Prosecutor for the 1<sup>st</sup> respondent/State. None appeared for the 2<sup>nd</sup> respondent/Complainant.

5. 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, the civil suit is pending between the parties in O.S.No.9 of 2013 on the file of IV Additional District Judge, Tirupati, which was filed by the 1<sup>st</sup> petitioner/A.1 against the 2<sup>nd</sup> respondent for specific performance. Further, he would submit that the allegations set out in the complaint do not constitute any offence against the petitioners/A.1 to A.4. He would further submit that the complaint discloses a civil dispute and a civil suit was filed by the 1<sup>st</sup> petitioner making the similar grievance. He would thus submit that continuation of criminal proceedings is nothing but an abuse of process of the Court and therefore, the F.I.R., is liable to be quashed.

6. Sri P.M.Mithileswara Reddy, learned Assistant Public Prosecutor for the 1<sup>st</sup> respondent/State would submit that the 2<sup>nd</sup> respondent filed a complaint before the learned Magistrate



and the same was forwarded to the Station House Officer, Alipiri Police Station and a case in Crime No.74 of 2013 was registered against the petitioners herein. Further, he would submit that the alleged agreement of sale was brought into existence by forging the signatures of the 2<sup>nd</sup> respondent in order to grab away the subject property and filed a fraudulent suit in O.S.No.9 of 2013. Further, he would submit that the allegations mentioned in the complaint would attract the alleged offences. The crime has to be investigated into depth and therefore, it cannot be quashed at its threshold and he prayed for dismissal of the petition.

7. Now the points for determination are:

1. *Whether there are any merits in the criminal petition to allow?*
2. *Whether the dispute is entirely civil nature and therefore, liable to be quashed?*

POINT Nos.1 & 2:

8. It should be noted that in **State of Haryana & Others Vs. Ch.Bhajanlal and Others**<sup>1</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

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<sup>1</sup>AIR 1992 SC 604



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;*

*(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.*

9. As can be seen, the guidelines is to the effect that even if the complaint allegations are accepted to be true on their face value, if they do not constitute any offence, then the F.I.R can be



quashed against the accused. On this touchstone, when the complaint allegations are perused, the pivotal allegation is that the petitioners/A.1 to A.4 forged the signatures of the 2<sup>nd</sup> respondent and fabricated an agreement of sale and tried to grab away the property of the 2<sup>nd</sup> respondent. To substantiate their claim, the 1<sup>st</sup> petitioner/A.1 filed a suit in O.S.9 of 2013 on the file of the Court of IV Additional District Judge, Tirupati, against the 2<sup>nd</sup> respondent herein seeking specific performance in respect of the complaint A to C schedule properties. Some material papers were filed by the petitioners. In the written statement filed by the 2<sup>nd</sup> respondent herein it was averred that, when the alleged payment was made by the 1<sup>st</sup> petitioner, no notice was issued to execute a registered sale deed in his favour to perform his part of contract. Further, it was averred that the said agreement of sale is a forged document and the same was created in order to grab away the property and filed a false suit.

10. It is needless to emphasize that in the said suit the fundamental issue that arises for consideration is, whether the 1<sup>st</sup> petitioner/A.1 has a right to seek the relief of specific performance. It is a trait law that the Civil Court alone is competent to adjudicate upon the bonafide dispute between the parties.



11. The scope of Section 482 Cr.P.C is well defined and inherent powers could be exercised by the High Court to give effect to an Order under the Cr.P.C; to prevent the abuse of process of the Court; and otherwise to secure the ends of justice. In exercising such powers, it is not permissible for this Court to appreciate the evidence as it can only evaluate the material documents on record to the extent of its prima facie satisfaction about the existence of sufficient ground for proceedings against the petitioners/accused and the Court cannot look into the materials, the acceptability of which is essentially a matter of trial. Any document filed along with the petition labeled as evidence without being tested and proved, cannot be examined. Law does not prohibit entertaining the petition under Section 482 Cr.P.C for quashing the F.I.R even before the charge sheet is filed.

12. The Hon'ble Supreme Court and also this Court time and again held that the power under Section 482 Cr.P.C has to be exercised very sparingly in rarest of rare cases under extraordinary circumstances. It was further held that this Court has to examine case to case basis. In the proceedings under Section 482 Cr.P.C only *prima facie* case has to be seen in the light of the law laid down by the Hon'ble Apex Court.



13. The Hon'ble Apex Court in *Bhajanlal's case (supra)* gave certain exceptions for exercise of powers under Section 482 Cr.P.C. In view of the above stated facts and that there are several factual matrix, which involved are to be tried during the course of trial against the petitioners/A.1 to A.4, the case on hand is not falling in any of the exceptions given by *Bhajanlal's case (supra)*.

14. Though the learned counsel for the petitioners relied on the decisions of the Hon'ble Apex Court in **Mitesh Kumar J.Sha Vs. State of Karnataka and others<sup>2</sup>** and **G.Sagarsuri & others Vs. State of U.P. & others<sup>3</sup>**, having regard to the facts of the case and material on record in the instant case, this Court is of the opinion that the said judgments are not relevant to the present case of nature.

15. In the instant case, the 1<sup>st</sup> petitioner/A.1 filed a suit in O.S.No.9 of 2013 for specific performance basing on an agreement of sale dated 02.07.2009 said to have been executed by the 2<sup>nd</sup> respondent. The trial Court, by considering the facts of the suit in O.S.No.9 of 2013 concluded in its judgment dated 03.12.2019 at Page No.22 that the plaintiff i.e., 1<sup>st</sup> petitioner/A.1 failed to prove Exs.A.1 and A.2 i.e., sale

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<sup>2</sup> 2021 SCC OnLine SC 976

<sup>3</sup> (2000) 2 SCC 636





agreement dated 02.07.2009 and payment endorsement dated 25.03.2010 and that the 1<sup>st</sup> petitioner/A.1 is not entitled for specific performance in pursuance of the agreement of sale dated 02.07.2009 and the suit of the plaintiff (1<sup>st</sup> petitioner/A.1) was dismissed. Therefore, this Court is of the view that the allegations made by the 2<sup>nd</sup> respondent certainly would constitute the offence. Added to it, the case in Crime No.74 of 2013 still requires investigation. At this stage, I do not consider it appropriate to thwart the investigation by quashing the F.I.R.

16. Therefore, while exercising the extraordinary jurisdiction under Section 482 Cr.P.C, this 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. As the allegations in the complaint are criminal in nature and the suit filed by the 1<sup>st</sup> petitioner/A.1 was dismissed, and when the cheating, forgery and fabrication are alleged against the accused, it is the matter, which is to be investigated against the petitioners/A.1 to A.4 and thus, the complaint cannot be quashed.

17. In the case on hand, the civil suit was filed by the 1<sup>st</sup> petitioner/A.1 against the 2<sup>nd</sup> respondent for specific performance of complaint A to C schedule properties and the



said suit was dismissed by the trial Court. Therefore, the allegations in the complaint strengthen the case of the 2<sup>nd</sup> respondent.

18. At this juncture, it is relevant to refer to the judgment of the Hon'ble Apex Court in **Kamal Shivaji Pokarnekar Vs. State of Maharashtra and others**<sup>4</sup> wherein, at Para No.9, it was held as follows:

*“9. ...., we are of the considered view that the High Court ought not to have set aside the order passed by the trial court issuing summons to the respondents. A perusal of the complaint discloses prima facie, offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the trial. At the initial stage of issuance of process it is not open to the courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted.”*

19. In the light of the above judgment, the evaluation of the merits of allegations made on either side cannot be resorted at this stage. In the present case, it is crystal clear that the suit

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<sup>4</sup> (2019) 14 SCC 350



filed by the 1<sup>st</sup> petitioner/A.1 seeking specific performance was dismissed. Therefore, the above said judgment is aptly applicable to the facts of the present case.

20. Considering the above judgment, this Court is of the view that there are specific allegations against the petitioners, which have to be investigated. Further, the F.I.R is not an encyclopedia and need not be contained all the facts and hence, it cannot be quashed at its threshold. This Court finds that the F.I.R discloses the *prima facie* commission of the cognizable offence and as such, this Court cannot interfere with the investigation. The investigation machinery has to step into investigation and unearth the crime in accordance with the procedures prescribed in the Code.

21. In view of the foregoing discussion, I find no merit in the contentions of the learned counsel for the petitioners/A.1 to A.4. Consequently, the Criminal Petition is liable to be dismissed.

22. Resultantly, the Criminal Petition is dismissed. The Station House Officer, Alipiri Police Station, Tirupati Urban is directed to complete the investigation in connection with Crime No.74 to 2013 and file a final report, as expeditiously as possible, preferably within a period of three months from today.



Registry is directed to communicate the copy of this Order to all the concerned within a period of one week from today.

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

**JUSTICE DUPPALA VENKATA RAMANA**

14.07.2023

*DNS*

*Mjl/\**

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**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**  
**CRIMINAL PETITION No.7216 OF 2013**

**14.07.2023**

*DNS*  
*Mjl/ \**

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

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**CRIMINAL PETITION No. 7216 of 2013**

**Between:**

1. E.V.Satish @ Satish Kumar,  
S/o.E.V.Viswanadha Rao, aged 47 years,  
Business, R/o.18-3-61/2, Santhinagar,  
Khadi Colony, Tirupati – 518 507,  
Chittoor District.
2. C.Ramesh, S/o.C.Venkatamuni,  
Age 45 years, R/o.D.No.13-4-345/B2,  
Tata Nagar, Tirupati, Chittoor District.
3. V.Bhaskar, S/o.V.Venkatramaiah,  
Age 40 years, R/o.D.No.19-4-8E/9,  
S.T.V.Nagar, Tirupati, Chittoor District.
4. K.Madhava Rao, S/o.K.N.Raghupathi,  
Age 36 years, Document Writer,  
R/o.D.No.18-6-122, Sundarayya Nagar,  
Tirupati, Chittoor District. ... Petitioners/Accused

**And**

1. The State of A.P., Represented by Public Prosecutor,  
High Court of A.P., Amaravati.
2. G.Srinivasa Murthy, S/o.late G.Shivaram Murthy,  
Aged 60 years, R/o.D.No.18-3-49, Khadi Colony,  
Tirupati – 518 507, Chittoor District. .. Respondents

DATE OF JUDGMENT PRONOUNCED: **14-07-2023**

**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**

**+ CRIMINAL PETITION No. 7216 of 2013**

**% 14-07-2023**

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**! Counsel for Petitioners** : Sri Y.V.Ravi Prasad

**^ Counsel for Respondents** : Asst.Public Prosecutor (State)

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**> Head Note:**

**? Cases referred:**

1. AIR 1992 SC 604
2. 2021 SCC Online SC 976
3. (2000) 2 SCC 636
4. (2019) 14 SCC 350

This Court made the following: