
(2021) 11 TEL CK 0069
In the Telangana High Court
Case No : Criminal Petition No. 5669 Of 2013

Chigiri Chiguru Ramaiah 5 Others

APPELLANT

Vs

State Of AP., Another

RESPONDENT

Date of Decision : 26-11-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 120B, 406, 420, 423, 465, 471, 477

Citation : (2021) 11 TEL CK 0069

Hon'ble Judges : Dr. G. Radha Rani, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. This petition is filed by the petitioners - A1 to A6 under Section 482 Cr.P.C. to quash the proceedings in Crime No.224 of 2013 of Karimnagar Rural Police Station, Karimnagar District, registered against them for the offences under Sections 120-B, 406, 420, 423, 465, 471 and 477 IPC.

2. The respondent No.2 lodged a private complaint before the Judicial Magistrate of First Class, Karimnagar, stating that petitioners No.1 to 5 - A1 to A5 executed fake, forged, sham and fictitious registered sale deed vide document No.3057 of 2013 dated 29.04.2013 in respect of his land in Sy.No.538/F, admeasuring 0-26 guntas, styling themselves as real owners and sold the said land in favour of A6 and cheated him. The illegal sale of the land was not followed by delivery of possession to the purchaser and it was only a nominal sale deed executed to deprive the respondent No.2 of his legitimate rights over the property. Fake and fictitious pattedar pass books and title deeds were shown as genuine for getting the land registered in the name of A6. The said private complaint was referred to the police which was registered as Crime No.224 of 2013 for the above offences.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent No.2-de facto complainant.

4. Learned counsel for the petitioners submitted that the petitioners 1 to 5 were the owners and possessors of the dry land admeasuring 0-26 guntas in Sy.No.538/F situated at Maqdumpur Village, Karimnagar District and they were cultivating the land and raising crop, mango trees also existed in the said land. With regard to the disputed land, three suits were pending vide O.S No.157 of 2012 on the file of Principal Junior Civil Judge, Karimnagar, was filed by the father of the petitioner No.1 seeking declaration of title and perpetual injunction; the second suit vide O.S. No.259 of 2012 on the file of Senior Civil Judge, Karimnagar was filed by the respondent No.2 seeking perpetual injunction and the third suit vide O.S. No.222 of 2013 on the file of the Junior Civil Judge, Karimnagar, was filed by the petitioner No.6 - A6 seeking for injunction and declaration of the registered GPA as not binding on him. The matter was purely civil in nature. The police ought not to have registered the FIR, as civil matters were pending before the respective Courts. Registering of FIR itself was an abuse of process of law. If the respondent No.2 had any grievance with regard to the revenue entries, he had to pursue the matter before the Revenue Authorities under R.O.R. Act. The complainant knowing fully-well about the above facts, filed the present case only to harass the petitioners and prayed to quash the proceedings against the petitioners in Crime No.224 of 2013 of Karimnagar Rural Police Station.

5. Learned counsel for the respondent No.2 submitted that the petitioners No.1 to 5 in collusion with the petitioner No.6 created false entries in Pahani patrikas showing one Chigiri Rajaiah as pattadar and showed the name of the father of the respondent No.2 in the possession column. The petitioners - accused colluded together with a common object to get the name of Chigiri Rajaiah as pattadar in pahani patrikas and also brought into existence the forged and fake 1-B certificate. He relied on the judgment of the Hon'ble Apex Court in Vitoori Pradeep Kumar v. Kaisula Dharmaiah (2002) 9 SCC 581 on the aspect that pendency of a civil suit in respect of the matter concerned would not be a bar to resort to criminal proceedings.

6. Perused the record. As per the private complaint filed by the respondent No.2, the grandfather of the respondent No.2 by name, Devanapalli Chinna Venkaiah was the owner, pattedar, possessor of the land in Sy.No.538/F measuring 0-26 guntas, situated at Maqdumpur village of Karimnagar Mandal and District and after the death of Chinna Venkaiah, his son Mallaiah had succeeded to the said property by inheritance. The said Mallaiah also died in the year 1990 and the respondent No.2, being the son of Mallaiah, had come into possession of the said land. The name of the grandfather of the respondent No.2 had been figured as pattedar in the revenue records i.e. Pahani patrikas and other relevant documents since the year 1980 and consequent to the death of Chinna Venkaiah, the name of Mallaiah was continued in the revenue records. Virasat in the name of Mallaiah had been granted. Thus, Mallaiah continued as pattedar of the said land till the year 1983. Thereafter, A1 to A5 in collusion with A6 colluded together and hatched a plan and created false entries in the Pahani Patrikas showing

Chigiri Rajaiah as pattedar and showed the name of Devanapalli Mallaiah (father of the respondent No.2) in the possession column. Chigiri Rajaiah had no right, title or interest of any kind to succeed to such property. He was neither purchaser of the land, either through registered document or through any simple sale deed, or any other way. The accused colluded together and brought into existence the forged and fake 1-B certificate. The name of the respondent No.2 had not figured in the revenue records and the name of his late father continued to appear only in the possessor column of pahani patrikas. Sensing these illegal entries in the revenue records, the respondent No.2 approached the Revenue Authorities with petitions to rectify the mistake of entry of the name of Chigiri Rajaiah as pattedar and there was no response from the revenue authorities. As such, he filed O.S No.259/2012 for perpetual injunction before the Senior Civil Judge, Karimnagar. Status Quo order was given by the concerned Court vide I.A. No.983/2012, dated 30.08.2012. He made requests to the VRO, Maqdumpur village not to mutate or transfer the name of the owner in the revenue records and marked copies of the said petition to the District Collector, Joint Collector, Revenue Divisional Officer and Tahsiladar, Karimnagar and also to the Revenue Inspector, Karimnagar, but none had responded to his request. Chigiri Rajaiah died long back and after his death only, the so called entry was made and subsequent to the same, the registered document was created and brought into existence. A1 to A5 in collusion with A6 had brought the forged pattedar passbooks and title deeds in respect of the land in the name of Chigiri Rajaiah, even though he was dead and no more.

7. The copies of the civil courts records would disclose that Chigiri Rajaiah filed a suit for declaration of title and perpetual injunction vide O.S No.157 of 2012 on the file of Principal Junior Civil Judge, Karimnagar against the respondent No.2 and one Saini Mallaiah. The respondent No.2 filed a suit for perpetual injunction before the Senior Civil Judge, Karimnagar vide O.S. No.259 of 2012 against Chigiri Rajaiah and the petitioner No.6. Petitioner No.6 had filed a suit for injunction and to declare the registered GPA as not binding on him vide O.S. No.222 of 2013 on the file of Junior Civil Judge, Karimnagar. All the said suits are filed with regard to the same schedule of property in Sy.No.538/F to an extent of 0-26 guntas, situated at Maqdumpur village of Karimnagar Mandal and District.

8. When the civil suits are pending, filing the criminal complaint stating that false entries were made in the pahani patrikas and that the accused brought into existence the fake 1-B certificate, is considered as an attempt made by the respondent No.2 to color a civil dispute with a criminal nature. The allegations made in the FIR were predominantly having a civil flavour. The respondent No.2 could have approached the Revenue Authorities if he considered that the entries were wrongly made in the revenue records. If the Revenue authorities had not responded, he could approach the Civil Court, which he had rightly done in this case. But filing a criminal case is considered not proper. The Hon'ble Apex Court in Indian Oil Corporation v. NEPC India Ltd. (2006) 6 SCC 736 cautioned the growing tendency in business circles to convert purely civil disputes into criminal

cases and observed that:

"13. 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."

In *Inder Mohan Goswami v. State of Uttaranchal* (2007) 12 SCC 1, after considering a series of decisions, the Hon'ble apex Court observed that:

"46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused."

In *G. Sagar Suri v. State of U.P.* (2000) 2 SCC 636 it was observed that

"...it was duty and obligation of the criminal court to exercise a great deal of caution in issuing the process, particularly when matters are essentially of civil nature."

9. Learned counsel for the respondent No.2 submitted that O.S No.259 of 2012 was decreed in favour of respondent No.2. But on perusal of the same, it was an ex parte decree. As the other cases filed by the petitioner No.6 and Chigiri Rajaiah, father of the petitioner No.1 - A1, were still pending before the Civil Courts, filing the criminal complaint against them is considered as to pressurize them in the matters which were essentially civil in nature. The Hon'ble Apex Court in *B. Suresh Yadav v. Sharifa Bee and another* (2007) 13 SCC 107 held that:

"Power of the High Court of quashing of the criminal case can be exercised when a civil suit is also pending between the parties in respect of the same subject matter and continuation of criminal proceedings in such like cases amounts to abuse of process of law."

10. Hence, considering the above judgments, the continuation of criminal proceedings is considered as an abuse of process of law and hence, liable to be quashed.

11. Accordingly, the Criminal Petition is allowed quashing the FIR in Crime No.224 of 2013 on the file of Karimnagar Rural Police Station, Karimnagar District, against the petitioners herein.

Miscellaneous petitions pending, if any, shall stand closed.