
(2011) 03 AP CK 0099

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 5963 of 2008

Kummari Narayana and Others

APPELLANT

Vs

State of A.P. and Another

RESPONDENT

Date of Decision : 16-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 384

Citation : (2011) 2 ALD(Cri) 158

Hon'ble Judges : K.S. Appa Rao, J

Bench : Single Bench

Advocate : P. Venkat Reddy, for the Appellant; Public Prosecutor High Court of A.P. for Respondent No. 1 and V. Ramesh Reddy, for the Respondent

Final Decision : Allowed

Judgement

K.S. Appa Rao, J.—The present Criminal Petition is filed by the Petitioners u/s 482 of the Code of Criminal Procedure (for short "Cr.P.C.") for quashing Crime No. 127 of 2008 registered in Mallapur Police Station for the offence punishable u/s 384 of Indian Penal Code, 1860 (for short "IPC") against them.

2. Learned Counsel for the Petitioners urged that the defacto-complainant in the first instance executed an agreement of sale in favour of the Petitioners herein, thereafter executed another agreement of sale in favour of third parties within a span of two months.

3. It is further contention of learned Counsel for the Petitioners that the ingredients of Section 384 of IPC do not attract to the present case on hand as there is no extortion and a false complaint was given against the Petitioners herein and placed reliance in a decision reported in the case of Lanka Hanumantha Rao and Others Vs. State of A.P. and Others,

4. Learned Counsel appearing for the Respondents argued that this matter involves question of facts but not question of law. This question of factum is to

be decided in due course of trial and it cannot be decided at this point of time. He further alleged extorting the money from the defacto-complainant itself constitutes the offence punishable u/s 384 of IPC.

5. Now the point for consideration is whether the Petitioners are entitled for quashing the crime registered against them?

POINT:

6. It is an admitted fact that the 2nd Respondent/defacto-complainant herein lodged a written complaint stating that she being the owner of a residential home agreed to sell the same to one Mudiganti Poshanna for a sale consideration of Rs. 1,00,000/- and the Petitioners herein on coming to know about the proposed sale transaction, they all went to the house of defacto-complainant on 29.08.2008 at 10.00 a.m. and questioned her authority for selling the same property and demanded her to pay half of the sale consideration to the village development committee and accordingly collected Rs. 50,000/- from her vendee Sri Mudiganti Poshanna.

7. It is an admitted fact that alleged amount of Rs. 50,000/- was collected from her vendee Sri Mudiganti Poshanna but not from the defacto-complainant. The question of extortion u/s 384 of IPC comes into play only when the defacto-complainant was demanded and collected money by extortion. In this case, the amount was not collected by the defacto-complainant but it was from third party. The recitals in the report lodged by the defacto-complainant dated 01.09.2008 also reads to the same effect. To constitute an offence u/s 384 of IPC the defacto-complainant has to prove that she was put under fear or dishonestly induced her to put in fear to deliver any property or valuable security. In the present case on hand, there is no evidence that she was extorted and on the other hand, she specifically stated in her report that an amount of Rs. 50,000/- was collected from her vendee. As stated already, she has executed an agreement of sale in favour of the Petitioners and same is on record. Viewed from any angle, this case squarely falls under the ambit of civil nature. Accordingly, having regard to the circumstances of the case on hand, I see no grounds for registering the complaint u/s 384 of IPC against the Petitioners and thereby the Crime No. 127 of 2008 registered by P.S. Mallapur for the offence u/s 384 of IPC is liable to be quashed u/s 482 of Code of Criminal Procedure

8. Accordingly, the Criminal Petition is allowed.