

**IN THE HIGH COURT FOR THE STATE OF TELANGANA**

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**Criminal Petition No. 4571 of 2021**

Between:

Gampa Krishnamurthy, S/o. Late Shankaraiah,  
Aged: 54 years, Occu: Business, R/o.Alair Village and  
Mandal, Yadadri-Bhongir District,  
(Erstwhile Nalgonda District).

... Petitioner/Accused No.1

and

1. State of Telangana, Represented by Public Prosecutor,  
High Court for the State of Telangana at Hyderabad.

... Respondent No.1

2. Gampa @ Gampala Narsimha, S/o.Ramaiah @ Ramulu,  
Aged :62 years, Occu: Retired Employee,  
R/o.Gundlagudem Village, Alair Mandal,  
Yadadri-Bhongir District – 508101.

... Respondent No.2/ *De facto* Complainant.

DATE OF JUDGMENT PRONOUNCED: 22-07-2022

**THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA**

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals       | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

**\* THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA**

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Vs.

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Aged :62 years, Occu: Retired Employee,  
R/o. Gundlagudem Village, Alair Mandal,  
Yadadri-Bhongir District – 508101.

... Respondent No.2/De facto complainant.

! Counsel for the Petitioner : Sri Papaiah Peddakula

Counsel for Respondent No.1: Sri Khaja Vizarath Ali,  
Assistant Public Prosecutor

Counsel for Respondent No.2: Sri K.Jagadishwar Reddy

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> Head Note:

? Cases referred:

1. *Mitesh Kumar J. Sha vs. State of Karnataka and others (Criminal Appeal No. 1285 OF 2021 (arising out of S.L.P (Crl.) No. 9871 OF 2019) decided on 26<sup>th</sup> October, 2021)*
2. *State of Haryana & Others. vs. Ch. Bhajan Lal and Others ((1992) SCC (Cri) 426 (6))*
3. *Randheer Singh Vs. The State of U.P. & Ors. (Criminal Appeal No. 932 of 2021, decided on 02.09.2021)*

**THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA**

**CRIMINAL PETITION No. 4571 OF 2021**

**ORDER:**

Alleging that the proceedings are initiated wrongfully against the petitioner, who is arrayed as Accused No.1 in F.I.R.No.47 of 2018 of Alair Police Station, Yadadri-Bhongir District, and thereby seeking the Court to quash the said First Information Report, the present Criminal Petition is filed.

2. Heard Sri Peddakula Papaiah, learned counsel for the petitioner, Sri K.Jagadishwar Reddy, learned counsel for the unofficial respondent as well as learned Assistant Public Prosecutor, who is representing respondent No.1-State.

3. When learned counsel for the petitioner projected that a false case was foisted against the petitioner (hereinafter be referred as "Accused No.1", for the sake of convenience of discussion) by respondent No.2 (hereinafter be referred as "the *de facto* complainant", for the sake of convenience of discussion), learned counsel appearing for the *de facto*

complainant submitted that as Accused No.1 committed the offences of cheating and misappropriation, a complaint was given against him and basing on the said complaint, police registered a case and the same is pending for investigation and, therefore, the present criminal petition is unsustainable.

4. The learned Assistant Public Prosecutor on instructions submits that he came to know that the Accused are alleged to have committed the offences of cheating and forgery and the case is under investigation. The learned Assistant Public Prosecutor further stated that a requisition was given to the Court of Senior Civil Judge, Bhongir, to transmit the relevant documents, which would aid the investigation.

5. The case of the *de facto* complainant, as could be perceived from the contents of the complaint, is that Accused No.1 is a close friend of the *de facto* complainant. On one day, the *de facto* complainant received notices from the Court, wherein it was mentioned that the Accused filed a suit for specific performance of contract. On that, he engaged an Advocate and verified the original documents that are filed in

O.S.No.65 of 2017 that stood pending on the file of the Court of Senior Civil Judge, Bhongir. He could find that the signatures available on the agreement of sale does not pertain either to him or his son. When he refreshed his memory, he could recollect that on one day, while he was in possession of ROR Pattadar Pass Book and Title Deed, he spent some time with Accused No.1 at his house and thereafter, he reached the Bus Stand and while getting down from the Bus, he searched for the bag, which contain those documents, but could not find. Immediately, he rushed to the house of Accused No.1 and enquired about that bag, but Accused No.1 informed that no bag was left at his house. Thereafter, steps were taken for getting the duplicate Pattadar Pass Book and Title Deed. After enquiry, the Tahsildar, Alair, issued duplicate ROR Pattadar Pass Book and Title Deed. Basing on those documents, he offered to sell the property. Though negotiations were held at the house of Accused No.1, Accused No.1 did not raise any objection, but all of a sudden he filed a suit by creating false and fictitious documents.

6. The above narration of events formed basis for the Court to refer the complaint that was filed under Section 200 Cr.P.C., to the Station House Officer, Alair Police Station, for investigation and report. The Station House Officer, Alair Police Station, on receiving the complaint, registered a case in Crime No.47 of 2018 for the offences punishable under Sections 420, 468 read with 34 of I.P.C., and took up investigation. The petitioner/Accused No.1 is aggrieved by the said registration of the case.

7. Making his submission, learned counsel for the petitioner/Accused No.1 narrated the following set of facts:

- 1) The *de facto* complainant executed an agreement of sale on 23.07.2009 in favour of Accused No.1 in respect of Ac.2-10 gts., of land i.e. situated in Sy.No.998 of Alair Village;
- 2) On the date of execution of the agreement of sale, the *de facto* complainant received Rs.50,000/- as part of the sale consideration and handed over the Pattadar Pass Book and Title Deed to Accused No.1. He agreed to execute the registered sale deed in favour of Accused No.1 after getting No Objection Certificate (NOC) from the revenue authorities as he acquired the said land under Ex-Servicemen Quota;

- 3) The *de facto* complainant dragged on the matter by postponing execution of the registered sale deed;
- 4) Due to hike of prices, the *de facto* complainant raised dispute with Accused No.1. However, on the advice and intervention of elders and well-wishers, the *de facto* complainant agreed to sell half of the land i.e. Ac.1-05 gts., for a total sale consideration of Rs.11,50,000/- and executed another agreement of sale on 04.12.2013 acknowledging that he received a sum of Rs.8,50,000/-, a receipt was also issued by the *de facto* complainant. In both the agreements of sale i.e. agreement of sale dated 23.07.2009 and agreement of sale dated 04.12.2013, it is clearly mentioned that the *de facto* complainant handed over the original Pattadar Certificate, original Pattadar Pass Book and original Title Deed to Accused No.1;
- 5) When the *de facto* complainant in collusion with third parties tried to deprive the legitimate right of Accused No.1, Accused No.1 gave a complaint to the police. As there was no response, Accused No.1 filed a writ petition vide W.P.No.23342 of 2017. Thereafter, police registered a case in Crime No.111 of 2017 against the *de facto* complainant and seven others. The matter was investigated into and charge-sheet was laid vide C.C.No.94 of 2018, which is pending before the Court of Judicial Magistrate of First Class, Alair.

6) Subsequently, Accused No.1 filed a suit in O.S.No.64 of 2017, which is pending on the file of the Court of Senior Civil Judge, Bhongir, seeking specific performance of agreement of sale against the *de facto* complainant and the same is pending for adjudication.

8. Mentioning and stressing upon the above set of events, learned counsel for Accused No.1 contended that after filing of the suit, Accused No.1 came to know that the *de facto* complainant made false statements before the police officials as well as the Revenue authorities that he lost the original documents i.e. Pattadar Pass Book, Title Deed and Patta Certificate and by misleading the authorities, obtained the duplicate copies of those documents. Learned counsel contended that suppressing all these events, the *de facto* complainant lodged a complaint and the police having received the complaint from the Court mechanically registered a case and thus, continuation of proceedings is undesirable.

9. The complaint, basing on which the case is registered against Accused No.1 and others, as per the material

available on record, is dated 08.01.2018. Contending that though the *de facto* complainant agreed to sell the property to him, executed two agreements of sale and received a total sum of Rs.8,50,000/- and handed over the relevant documents to him and thereafter failed to turn up to execute the registered sale deed and further had misrepresented and obtained duplicate copies, the petitioner/Accused No.1 in the year, 2017 itself gave complaint to police and after investigation, the police laid charge sheet against respondent No.2/*de facto* complainant that he had committed offences punishable under Sections 420, 504 read with 34 I.P.C.. Also, by the material available on record, it is clear that in the year 2017 itself, the petitioner/Accused No.1 filed a suit vide O.S.No.64 of 2017 against respondent No.2/*de facto* complainant and others for specific performance of contract. Thus, all the contentions raised and the submission made by learned counsel for the petitioner/Accused No.1 appears genuine.

10. As rightly put-forth by learned counsel for the petitioner/Accused No.1, the defences, if any, which ought to

have taken in the written statement, were converted into a complaint and criminal proceedings were initiated by respondent No.2/*de facto* complainant against the petitioner/Accused No.1 and others. This is impermissible under law. Time and again, the Hon'ble Apex Court as well as this Court had held that the criminal law cannot be put into motion for settlement of civil disputes. On going through the entire material available on record, this Court is of the opinion that filing of a complaint invoking Section 200 Cr.P.C., by respondent No.2/*de facto* complainant is undesirable and such complaints are not liable to be entertained. The very purpose of establishment of criminal Courts and the Police Stations is not to settle the civil disputes. Indicating that initiation of criminal proceedings to settle civil disputes should not be entertained, the Hon'ble Apex Court in a case between ***Mitesh Kumar J. Sha vs. State of Karnataka and others (Criminal Appeal No. 1285 OF 2021 (arising out of S.L.P (Crl.) No. 9871 OF 2019) decided on 26<sup>th</sup> October, 2021***), at Para Nos.44 to 47 held as follows:

“44. Furthermore, in the landmark judgment of **State of Haryana & Others. vs. Ch. Bhajan Lal and Others ((1992) SCC (Cri) 426 (6))** regarding exercise of inherent powers under [Section 482](#) of Cr.P.C., this Court has laid down following categories of instances wherein inherent powers of the can be exercised in order to secure the ends of justice. These 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.”

45. Applying this dictum to the instant factual matrix, it can be safely concluded that the present case clearly falls within the ambit of first, third and fifth category of the seven categories enlisted in the above said judgment. The case therefore warrants intervention by this Court, and the High Court has erred in dismissing the petition filed by the Appellants under Section 482 CrPC. We find that there has been attempt to stretch the contours of a civil dispute and thereby essentially impart a criminal color to it.

46. Recently, this Court in case of ***Randheer Singh Vs. The State of U.P. & Ors. (Criminal Appeal No. 932 of 2021, decided on 02.09.2021)***, has again reiterated the long standing principle that criminal proceedings must not be used as instruments of harassment. The court observed as under:-

“33. ....There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any

court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in *Paramjeet Batra (supra)* extracted above.”

47. Moreover, this Court has at innumerable instances expressed its disapproval for imparting criminal color to a civil dispute, made merely to take advantage of a relatively quick relief granted in a criminal case in contrast to a civil dispute. Such an exercise is nothing but an abuse of the process of law which must be discouraged in its entirety.”

11. Thus, in the back drop of the discussion that went on, this Court is of the view that the inherent powers under Section 482 of the Code of Criminal Procedure, 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.

12. Therefore, this Court is of the view that initiation of proceedings is undesirable and, therefore, the proceedings as prayed for are liable to be quashed.

13. Resultantly, the Criminal Petition is allowed. The proceedings initiated against the petitioner/Accused No.1 in Crime No.47 of 2018 of Alair Police Station, Yadadri-Bhongir District, are hereby quashed.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

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**DR. CHILLAKUR SUMALATHA, J**

Date: 22.07.2022

Note: L.R.Copy to be marked.

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