

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

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**CRIMINAL PETITION No. 2641 of 2013**

**Between:**

1. Sanapala Ananda Rao,  
S/o.Suryanarayana, Aged 65 years,  
D.No.59-25-10/5, Setanna Gardens,  
Madhavadhara, Visakhapatnam- 7.
  2. Sanapala Sarojini,  
W/o.Ananda Rao, Aged 59 years,  
D.No.59-25-10/5, Setanna Gardens,  
Madhavadhara, Visakhapatnam- 7.
  3. Sanapala Sanyasamma,  
W/o.Suryanarayana, Aged 85 years,  
D.No.59-25-10/5, Setanna Gardens,  
Madhavadhara, Visakhapatnam- 7.
  4. Sanapala Suresh Kumar,  
S/o.Anandarao, Aged 35 years,  
D.No.59-25-10/5, Setanna Gardens,  
Madhavadhara, Visakhapatnam- 7.
  5. Sanapala Lakshminarasimha,  
S/o.Anandarao, D.No.59-25-10/5,  
Setanna Gardens, Madhavadhara,  
Visakhapatnam- 7.
  6. Sanapala Rupavathi,  
W/o.Narasinga Rao, Aged 50 years,  
D.No.59-25-10/5, Setanna Gardens,  
Madhavadhara, Visakhapatnam- 7.
  7. Sanapala Santhosh,  
S/o.Narasinga Rao, D.No.59-25-10/5, Setanna Gardens,  
Madhavadhara, Visakhapatnam- 7.
- .... Petitioners/A.1 to A.7

**And**

1. The State of A.P., Represented by Public Prosecutor,  
High Court of A.P., Amaravati.
2. Satyala Prakash,  
S/o.Late Mutyala Pathrudu, R/o.Plot No.11,  
Sivarampuram, GVMC,  
Visakhapatnam. ... Respondents

DATE OF JUDGMENT PRONOUNCED: **20-09-2023**

**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.2641 of 2013**

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Sivarampuram, GVMC,  
Visakhapatnam. ... Respondents

**! Counsel for Petitioners** : Sri Challa Ajay Kumar

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

**< Gist:**

**> Head Note:**

**? Cases referred:**

1. (2020) 13 SCC 435
2. AIR 1992 SC 604
3. (2017) 9 SCC 641
4. (2018) 3 SCC 104
5. (2013) 11 SCC 673
6. (2015) 8 SCC 293
7. 2021 SCC Online SC 942
8. 2021 SCC Online SC 976
9. (2019) 14 SCC 350

This Court made the following:

**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA****CRIMINAL PETITION No.2641 of 2013****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C") by the petitioners/A.1 to A.7 seeking to quash the proceedings in C.C.No.676 of 2012 on the file of the Court of III Metropolitan Magistrate, Visakhapatnam, registered for the offence under Sections 468, 471 and 420 IPC, against them.

2. Heard Sri Challa Ajay Kumar, learned counsel for the petitioners and Sri Y.Jagadeeswara Rao, learned Assistant Public Prosecutor for the State.

3. The brief facts of the case, as per the charge sheet, are as follows:

(i) While the 2<sup>nd</sup> respondent/*de facto* complainant, who was a builder, and his friend viz., L.W.2-Muddana Ranganayakulu, who was a Teacher in D.A.V.Public School, were searching to purchase a suitable land in Madhavadhara for development, through L.W.6(M.Kondal Rao), they approached the 1<sup>st</sup> petitioner/A.1, who got introduced himself as a landlord and stated that there is an ancestral property to an extent of Ac.3.00 cents situated in Sy.Nos.291P, 293, 294P and 296P of

Adavivaram Revenue Village, Chinagadili Mandal, Visakhapatnam and showed the said property physically to them and also showed some registered documents pertaining to the year 1922 in the name of Sanapala Yerukamma and also the subsequent documents and informed them that himself, and A.2 to A.8 are the legal heirs of Yerukamma and they have succeeded the said property. Believing the words of the Petitioner/A.1 and his family members, the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu agreed to purchase the said land @ Rs.29,99,999/- per acre. The petitioners/A.1 to A.7 got executed an un-registered sale agreement on 14.08.2004 in favour of the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu, and received an amount of Rs.8,52,000/- as an advance subject to the condition that the petitioners/A.1 to A.7 have to clear off all the pending encumbrances to Simhachalam Devasthanam and get clearance from the temple authorities and after obtaining clearance by the executants, the purchasers also have to pay certain amounts to VUDA towards layout charges. Thereafter, the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu insisted the petitioners/A.1 to A.7 to get clearance from the temple authorities. On 21.08.2004, on the

request made by petitioners/A.1 to A.7, an amount of Rs.2,00,000/- was paid by the 2<sup>nd</sup> respondent/ *de facto* complainant and L.W.2-Muddana Ranganayakulu. On the request of the 1<sup>st</sup> petitioner/A.1, an amount of Rs.9,50,000/- on 05.09.2004; an amount of Rs.6,00,000/- on 28.09.2006 and an amount of Rs.3,00,000/- on 03.05.2007 were paid by them to the petitioners/A.1 to A.7. The total amount of Rs.29,02,000/- was paid by the 2<sup>nd</sup> respondent/ *de facto* complainant and L.W.2-Muddana Ranganayakulu to the petitioners/A.1 to A.7 from the date of the unregistered agreement of sale dated 14.08.2004.

(iii) After receipt of the above amounts, there was no information from the 1<sup>st</sup> petitioner/A.1 regarding clearance from Simhachalam Devasthanam. Whenever they visited the house of the Petitioner/A.1, all the accused were found absconding. Then the 2<sup>nd</sup> respondent/ *de facto* complaint got a doubt as to whether the subject land belongs to Simhachalam Devasthanam or to the accused and whether the accused paid the amount to get clearance from Devasthanam. On enquiry, they came to know that either the 1<sup>st</sup> petitioner/A.1 or any of his family members are having no right or title over the said land and the entire land belongs to Simhachalam Devasthanam and that the said

Devasthanam had never issued any proceedings in R.C.No.C1/7770/89, dated 25.07.1996, in favour of the 1<sup>st</sup> petitioner/A.1. Then, the 2<sup>nd</sup> respondent/ *de facto* complainant and L.W.2-Muddana Ranganayakulu demanded the petitioners/A.1 to A.7 to refund the amount paid by them for which, the accused warned them with dire consequences. The Petitioners/A.1 to A.7 in collusion and with a deceptive intention at the inception cheated them, and without having any title, they illegally received the amount of Rs.29,02,000/-. As such, the 2<sup>nd</sup> respondent/ *de facto* complainant and L.W.2-Muddana Ranganayakulu have no option except to lodge a report with the Police. On the basis of the said report, a case in Crime No.47 of 2012 was registered by Kancharapalem Police Station, Visakhapatnam City for the offence under Sections 468, 471 and 420 IPC and during the course of investigation, L.W.9(Investigating Officer) addressed a letter to the Executive Officer, Simhachalam Devasthanam to know the fact about the land covered in Sy.Nos.291P, 293, 294P and 296P of Adavivaram Revenue Village, Chinagadili Mandal, Visakhapatnam belongs to the petitioner/A.1 or Simhachalam Devasthanam. The Executive Officer of Simhachalam Devasthanam (L.W.7) issued a reply dated 29.07.2012 stating

that the subject lands belong to Simhachalam Devasthanam only. Eventually, having found *prima facie* evidence against the petitioners/A.1 to A.7 and A.8 regarding their complicity in the commission of the said offence, after completion of investigation, the investigating officer filed a charge sheet in the trial Court and numbered as C.C.No.676 of 2012 and the said case is now pending trial. The present petition is filed by the petitioners/A.1 to A.7 to quash the proceedings against them in the above C.C.

4. Learned counsel for the petitioners would submit that the subject land is the ancestral property of the petitioners as the same was granted by 'Vijayanagaram Raja' as an 'Inam' and the same was declared by the District Munsif of Vizagapatnam *vide* judgment in O.S.Nos.302, 303 and 308 of 1929 dated 11.05.1931, which was also confirmed in A.S.No.470 of 1931 by the District Judge, Vizagapatnam dated 23.12.1931. Further, he would submit that having satisfied with the above judgments, the 2<sup>nd</sup> respondent/ *de facto* complainant and L.W.2-Muddana Ranganayakulu agreed to purchase the subject property and entered into an unregistered agreement of sale and paid a total amount of Rs.29,02,000/-. He would further submit that having been silent for nine years, the 2<sup>nd</sup> respondent filed the present complaint alleging that the petitioners have not come forward to

execute the said sale deed on the ground that there is a litigation pending with Devasthanam. He would further submit that the petitioners have informed about the litigation at the time of agreement of sale and the 2<sup>nd</sup> respondent/ *de facto* complainant and L.W.2-Muddana Ranganayakulu having knowledge about the said litigation, filed a false complaint against the petitioners/A.1 to A.7 and A.8. Further he would submit that the allegations in the complaint are of civil nature. The 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu have to pursue their remedy in a competent Civil Court and the Criminal Proceedings for the said offences are not maintainable. Further, he would submit that the dispute in question is purely of a civil nature. In the above facts and circumstances of this case of nature, initiating criminal proceedings against the petitioners/A.1 to A.7 is clearly an abuse of process of the Court and scope and ambit of Court's powers under Section 482 Cr.P.C., and the inherent powers under Section 482 Cr.P.C can be exercised and therefore, he would pray for quash of the criminal proceedings against the petitioners/A.1 to A.7.

5. Learned Assistant Public Prosecutor vehemently opposed the criminal petition. He would submit that the inherent powers

under Section 482 Cr.P.C are very wide. The very plenitude of power requires great caution in its exercise. Further, he would submit that the Court must be careful to see that the decision in exercise of this power is based on sound principles. The inherent powers should not be exercised to stifle a legitimate prosecution. Further, he would submit that no hard and fast rule can be laid down regarding the cases of this nature in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage. Further, he would submit that one of the conditions in the unregistered agreement of sale is that the vendors (Petitioners/A.1 to A.7) should pay necessary charges/dues to Devasthanam and should obtain clearance, but they have not acted as per the terms of the agreement of sale. He would submit that it is clearly alleged that even before entering into an agreement dated 14.08.2004 the lands were already in the possession of Simhachalam Devasthanam. Further, he would submit that during investigation, L.W.9(Inspector of Police) has addressed a letter to Devasthanam whether the land covered in respective survey numbers under the unregistered agreement of sale dated 14.08.2004 belongs to the 1<sup>st</sup> petitioner/A.1 and his family members or to the temple and in response to the said letter, the

Executive Officer gave a reply stating that the land covered in the survey numbers belong to Devasthanam and thereafter the Investigating Officer filed the charge sheet enclosing the said letter. It clearly proves that the petitioners/A.1 to A.7 have no title over the said property covered under the unregistered agreement of sale and with a deceptive intention at the inception, the petitioners/A.1 to A.7 showed the forged documents as genuine and entered into an unregistered agreement of sale and squandered the money from the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu and therefore, it is a clear case of cheating. Further, he would submit that after thorough investigation, the Investigating Officer filed the charge sheet, and as such, the matter requires trial to ascertain the truth or otherwise of the said allegations. He would submit that there is no merit in the contentions of the petitioners that there are no allegations against them regarding the commission of the offence. Therefore, he would pray for dismissal of the criminal petition.

6. Having perused the relevant facts and contentions raised by the learned counsels for both the petitioners and the respondent/State, in my considered opinion, the first and

foremost issue, which requires determination in the instant case

is:

*Whether the allegations made against the petitioners/A.1 to A.7 would attract the accusation against them and whether there are any merits in the criminal petition to allow?*

POINT:

7. In **Ahmad Ali Quraishi and another Vs. State of Uttar Pradesh and another**<sup>1</sup>, the Hon'ble Apex Court held as follows:

*“10. Before we enter into facts of the present case and submissions made by the learned counsel for the parties, it is necessary to look into the scope and ambit of inherent jurisdiction which is exercised by the High Court under Section 482 CrPC. This Court had the occasion to consider the scope and jurisdiction of Section 482 CrPC. This Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , had elaborately considered the scope and ambit of Section 482 CrPC/Article 226 of the Constitution in the context of quashing the criminal proceedings. In para 102, this Court enumerated seven categories of cases where power can be exercised under Article 226 of the Constitution/Section 482 CrPC by the High Court for quashing the criminal proceedings. Para 102 is as follows : (SCC pp. 378-79)*

*“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae*

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<sup>1</sup> (2020) 13 SCC 435

*and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*(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 FIR 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 Act concerned (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 Act concerned, 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.”*

8. Further, in **State of Haryana & Others Vs. Ch.Bhajanlal and Others**<sup>2</sup>, the Hon'ble Apex Court at Para No.103 held as follows:

*“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”*

9. In the light of the above judgments, this Court has to consider whether the allegations made in the charge sheet disclose *prima facie* offence and the matter requires trial to ascertain the truth or otherwise of the said allegations. It is not open to the Court to stifle the proceedings by entering into merits of the contentions made on behalf of the petitioners/A.1 to A.7 and the criminal proceedings cannot be quashed at this stage since the ingredients of the offences alleged in the charge sheet against the petitioners/A.1 to A.7 are *prima facie* made out and the said disputed questions of fact cannot be decided in this criminal petition under Section 482 Cr.P.C, as there is a clear dishonest intention on the part of the petitioners/A.1 to

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

A.7 in squandering away the said money of Rs.29,02,000/- under the agreement of sale without having any title over the said property. Therefore, it cannot be said that no case is made out against the petitioners/A.1 to A.7.

10. In **Parbatbhai Aahir and others Vs. State of Gujarat and another**<sup>3</sup>, the Hon'ble Apex Court held as follows:

*16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:*

*16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.*

*16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.*

*16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.*

*16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”*

11. In view of the principles laid down in the above judgments, this Court is of the view that the petitioners/A.1 to A.7 colluded each other and without having any title over the subject

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<sup>3</sup> (2017) 9 SCC 641

property claimed that they are the legal heirs of Sanapala Yerukamma and succeeded to the said property by showing the documents since 1922, which fact has to be decided during the course of trial. Evidently, contrary to the above said fact, the Executive Officer, Simhachalam Devasthanam addressed a letter dated 29.07.2012 to the Investigating Officer that the subject property belongs to Simhachalam Devasthanam. Therefore, the allegations in the charge sheet would demonstrate that there is a civil dispute over the said land between the parties. The allegations are cheating, fabrication of documents etc. The 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu are deprived of their interest in the subject land based on the fabricated documents. If the allegations in the FIR or charge sheet are construed, as they stand, it is evident that they implicate the serious offences having bearing on a vital societal interest in securing the probity of titles to or interest in land. Such offences cannot be construed to be merely private or civil disputes, but, implicate the societal interest in prosecuting serious crime. In these circumstances, this Court is of the view that it is not safe to quash the proceedings against the petitioners/A.1 to A.7.

12. In **Dineshbhai Chandubhai Patel Vs. State of Gujarat and others**<sup>4</sup>, the Hon'ble Apex Court held as follows:

*“25. The law on the question as to when a registration of the FIR is challenged seeking its quashing by the accused under Article 226 of the Constitution or Section 482 of the Code and what are the powers of the High Court and how the High Court should deal with such question is fairly well settled.*

*26. This Court in State of W.B. v. Swapan Kumar Guha [State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561 : 1982 SCC (Cri) 283 : AIR 1982 SC 949] had the occasion to deal with this issue. Y.V. Chandrachud, the learned Chief Justice speaking for three-Judge Bench laid down the following principle: (SCC pp. 576-77 & 598, paras 21 & 66)*

*“21. ... the condition precedent to the commencement of investigation under Section 157 of the Code is that the FIR must disclose, prima facie, that a cognizable offence has been committed. It is wrong to suppose that the police have an unfettered discretion to commence investigation under Section 157 of the Code. Their right of inquiry is conditioned by the existence of reason to suspect the commission of a cognizable offence and they cannot, reasonably, have reason so to suspect unless the FIR, prima facie, discloses the commission of such offence. If that condition is satisfied, the investigation must go on. ... The court has then no power to stop the investigation, for to do so would be to trench upon the lawful power of the police to investigate into cognizable offences.*

*66. Whether an offence has been disclosed or not must necessarily depend on the facts and circumstances of each particular case. ... If on a consideration of the relevant materials, the court is satisfied that an offence is disclosed, the court will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed for collecting materials for proving the offence.”*

*27. Keeping in view the aforesaid principle of law, which was consistently followed by this Court in later years and on perusing the impugned judgment, we are constrained to observe that the High Court without any justifiable reason devoted 89 pages judgment (see paper book) to examine the aforesaid question and then came to a conclusion that some part of the*

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<sup>4</sup> (2018) 3 SCC 104

*FIR in question is bad in law because it does not disclose any cognizable offence against any of the accused persons whereas only a part of the FIR is good which discloses a prima facie case against the accused persons and hence it needs further investigation to that extent in accordance with law.*

**28.** *In doing so, the High Court, in our view, virtually decided all the issues arising out of the case like an investigating authority or/and appellate authority decides, by little realising that it was exercising its inherent jurisdiction under Section 482 of the Code at this stage.*

**29.** *The High Court, in our view, failed to see the extent of its jurisdiction, which it possesses to exercise while examining the legality of any FIR complaining commission of several cognizable offences by the accused persons. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.*

*At this stage, the High Court could not appreciate the evidence nor could draw its own inferences from the contents of the FIR and the material relied on. It was more so when the material relied on was disputed by the complainants and vice versa. In such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine the questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.*

**31.** *In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.*

**32.** *The very fact that the High Court in this case went into the minutest details in relation to every aspect of the case and devoted 89 pages judgment to quash the FIR in part led us to draw a conclusion that the High Court had exceeded its powers while exercising its inherent jurisdiction under Section 482 of the Code. We cannot concur with such approach of the High Court.*

**34.** *On perusal of the three complaints and the FIR mentioned above, we are of the considered view that the complaint and FIR, do disclose a prima facie commission of various cognizable offences alleged by the complainants against the accused persons and, therefore, the High Court instead of dismissing the application filed by the accused persons in part*

*should have dismissed the application as a whole to uphold the entire FIR in question.*

**37.** *In the light of the foregoing discussion, it is now necessary that the matter, which is the subject-matter of the FIR in question, needs to be investigated in detail by the investigating authorities in accordance with the procedure prescribed in the Code.*

**42.** *Since the FIR is pending for quite some time, we direct the investigating authorities to complete the investigation of the case without any bias and prejudices strictly in accordance with law and proceed ahead expeditiously.”*

13. In the light of the above decision, in this case huge amount was received by the petitioners/A.1 to A.7 and squandered away the same without having title over the subject property, offered to sell the same with a deceptive intention at the inception, and cheated the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu. Subsequently, the 1<sup>st</sup> petitioner/A.1 failed to pay the amounts to Simhachalam Devasthanam to get clearance from the date of the unregistered agreement of sale i.e., 14.08.2004 till lodging the complaint i.e., 21.01.2012. It clearly shows that without having any right or title over the property, they gained wrongfully and have taken an amount of Rs.29,02,000/-. When the 1<sup>st</sup> petitioner/A.1 failed to get clearance from Simhachalam Devasthanam, he should have refunded the money to the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu. In spite of their requests, the petitioners/A.1 to

A.7 threatened them with dire consequences and thereby it was inevitable to lodge a report to the Police and based on the letter of the Executive Officer, Simhachalam Devasthanam stating that the property belongs to Devasthanam, the charge sheet was filed by the Police and it is a clear case of fraud and cheating committed by the petitioners/A.1 to A.7.

14. Therefore, at this stage, this Court could not appreciate the evidence nor could draw its own inference from the contents of the F.I.R or the charge sheet and the material relied on. It was more so, when the material relied on was disputed by the complainant and vice versa. In such a situation, it becomes the job of the Investigating Authority. Accordingly, the Investigating Officer investigated the case and filed charge sheet that the petitioners/A.1 to A.7 and A.8 created fake documents to the lands covered in above survey numbers and sold the said property under the alleged agreement of sale to the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu, without having any title and possession over the subject property and thereby, cheated them.

15. The learned counsel for the petitioners/A.1 to A.7 relied on the judgments in **Paramjeet Batra Vs. State of**

**Uttarakhand<sup>5</sup>, Vesa Holdings Private Limited Vs. State of Kerala<sup>6</sup>, Randheer Singh Vs. The State of U.P & Others<sup>7</sup> and Mitesh Kumar J.Sha Vs. The State of Karnataka & Others<sup>8</sup>.**

Having regard to the facts of the case and the evidence on record, this Court is of the opinion that the said judgments are not helpful to the case of the petitioners/A.1 to A.7. A given set of facts may make out a civil wrong as also a criminal offence and only because a civil remedy is available to the complainant that itself cannot be a ground to quash a criminal proceeding.

16. In **S.Sreenivasa Rao Vs. State of Telangana and another<sup>9</sup>**, the High Court of Telangana at Para No.16 held as follows:

*“16. The Hon’ble Apex Court in Sau. Kamal Shivaji Pokarnekar v. State of Maharashtra (4) 2019 (1) ALT (Crl.) 211 (SC) = AIR 2019 SC 847 has categorically held that quashing criminal proceedings was called for only in a case where complaint did not disclose any offence, or was frivolous, vexatious, or oppressive. If allegations set out in complaint did not constitute offence of which cognizance had been taken by Magistrate, it was open to High Court to quash same. It was not necessary that, a meticulous analysis of case should be done before trial to find out whether case would end in conviction or acquittal. If it appeared on a reading of complaint and consideration of allegations therein, in light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for High Court to interfere. The defences that might be available, or facts/aspects which when established during trial, might*

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<sup>5</sup> (2013) 11 SCC 673

<sup>6</sup> (2015) 8 SCC 293

<sup>7</sup> 2021 SCC Online SC 942

<sup>8</sup> 2021 SCC Online SC 976

<sup>9</sup> (2019) 14 SCC 350

*lead to acquittal, were not grounds for quashing complaint at threshold. At that stage, only question relevant was whether averments in complaint spell out ingredients of a criminal offence or not. The Court has to consider whether complaint discloses that prima facie, offences that were alleged against Respondents. Correctness or otherwise of said allegations had to be decided only in trial. At initial stage of issuance of process, it was not open to Courts to stifle proceedings by entering into merits of the contentions made on behalf of Accused. Criminal complaints could not be quashed only on ground that, allegations made therein appear to be of a civil nature. If ingredients of offence alleged against Accused were prima facie made out in complaint, criminal proceeding shall not be interdicted.”*

17. In the light of the above judgments, the allegations levelled in the charge sheet against the petitioners/A.1 to A.7, and the material collected during the investigation, this Court is of the opinion that a *prima facie* case is made out against the petitioners/A.1 to A.7. A fair investigation is carried out by the investigating officer and the charge sheet is a detailed one. The letter dated 03.07.2012 was addressed to the Executive Officer to ascertain whether the land covered in the above survey numbers belongs to Devasthanam or not and in response to the said letter, the Executive Officer had given a reply stating that the lands covered in the above survey numbers belong to Simhachalam Devasthanam. In view of the said letters, the petitioners/A.1 to A.7 with a deceptive intention at the inception showed the fraudulent documents by saying that as if the said property is their ancestral property and they are the legal heirs of said Yerukamma and succeeded to the said property and

these facts are to be decided during course of trial. Therefore, in the light of the facts and circumstances of the case, the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu even if they filed a suit for specific performance, they will not get a decree of specific performance because the said land covered under the unregistered agreement of sale belongs to Simhachalam Devasthanam. Therefore, the 1<sup>st</sup> petitioner/A.1 has no option except to refund the amount to the 2<sup>nd</sup> respondent/*de facto* complainant and L.W.2-Muddana Ranganayakulu, but he did not do so and as such, they are inevitable to face the trial. Based on the charge sheet, the cognizance has been taken by the learned Magistrate and numbered as C.C.No.676 of 2012. This Court is of the opinion that there is no legal infirmity in the charge sheet.

18. Considering the totality of the circumstances and the law declared by the Hon'ble Apex Court referred to *supra*, I am of the considered view that it is not a fit case to quash the proceedings at this stage, leaving it open to the petitioners/A.1 to A.7 to raise such contentions during trial. The power of this Court under Section 482 Cr.P.C, as discussed above, is limited and the Court cannot quash the proceedings at this stage. There is also no merit in the contention that the allegations are false

and that the charge sheet is liable to be quashed. Whether the said allegations are true or not is the matter to be decided in the final adjudication of trial of the case after appreciating the evidence adduced to that effect by the Prosecution. The said disputed question of fact cannot be decided in the criminal petition under Section 482 Cr.P.C. Therefore, it cannot be said that no case is made out against the petitioners/A.1 to A.7. Therefore, there are absolutely no valid legal grounds emanating from the record warranting interference of this Court, in the exercise of its inherent powers under Section 482 Cr.P.C to quash the charge sheet, in the facts and circumstances of the case. Hence, the present criminal petition is devoid of merits and the same is liable to be dismissed.

19. Resultantly, the present criminal petition seeking quash of the proceedings in C.C.No.676 of 2012 on the file of the Court of III Metropolitan Magistrate, Visakhapatnam, is hereby dismissed.

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

**JUSTICE DUPPALA VENKATA RAMANA**

20.09.2023

*DNS*

*Mjl/\**

*L.R.Copy to be marked*

**HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA**  
**CRIMINAL PETITION No.2641 OF 2013**

**20.09.2023**

*DNS*  
*Mjl/ \**  
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