

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL PETITION NO.980 OF 2023

Between:

Tellamekala Rama Rao

... Petitioner(s)

Versus

The State of Andhra Pradesh and Two others

...Respondents

* * * * *

DATE OF ORDER PRONOUNCED : 17.06.2026

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE K. SREENIVASA REDDY

1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment/Order? Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Judgment/Order? Yes/No

JUSTICE K.SREENIVASA REDDY

*** HONOURABLE SRI JUSTICE K.SREENIVASA REDDY**
+ CRIMINAL PETITION NO.980 OF 2023

% 17.06.2026

Between:

Tellamekala Rama Rao

... Petitioner(s)

Versus

The State of Andhra Pradesh and Two others

...Respondents

! Counsel for the Petitioner(s) : Sri Gajjala Mallikarjuna Reddy

^ Counsel for the Respondents : 1. Sri Arun Showri G
2. Public Prosecutor (AP)
3. T.V.P.Sai Vhiari

< Gist:

> Head Note:

? Cases referred:

- 1. AIR 1992 SC 604.**
- 2. (2003) 3 SCC 641.**
- 3. (2009) 8 Supreme Court Cases 751 : (2009) 3 Supreme Court Cases (Crl) 929 : 2009 SCC OnLine SC 1594.**
- 4. (2018) 7 Supreme Court Cases 581 : (2008) 3 Supreme Court Cases (Crl) 275 : 2018 SCC OnLine SC 522.**

This Court made the following:

Date on which Order/Judgment was reserved : 06.04.2026
Date on which Order/Judgment was pronounced : 17.06.2026
Date on which Order/Judgment was uploaded on the website of the High Court : 17.06.2026

APHC010058262023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3327]

WEDNESDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL PETITION NO: 980/2023

Between:

1. TELLAMEKALA RAMARAO, S/O. YEDUKONDALU, HINDU, AGED ABOUT 45 YEARS, R/O. 2ND LANE, R.J. ASHRAM RAO, SUDDAPALLI DONKA, OLD GUNTUR, GUNTUR TOWN, GUNTUR DISTRICT, ANDHRA PRADESH

...PETITIONER/ACCUSED

A N D

1. THE STATE OF ANDHRA PRADESH, REP. BY SHO, ARUNDelpet P.S., THROUGH PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI
2. GONUGUNTALA SESHIAH, S/O. ANANTHARAMAIAH, AGED ABOUT 58 YEARS, HINDU, R/O. FLAT. NO. 307, HIMAJA ENCLAVE, 2ND LANE, VIDYA NAGAR GUNTUR, GUNTUR DISTRICT, ANDHRA PRADESH.
3. GALI SRINIVASA REDDY, S/O. VENKATESWARA REDDY, A/56 YRS, 8TH LANE DWARAKA NAGAR, AMARAVATHI ROAD, GUNTUR.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to quash the proceedings in C.C.No. 55 of 2020 on the file of Judicial Magistrate of 1st class for Railways, Guntur, Guntur District against the petitioner/accused No-2 and to pass

IA NO: 1 OF 2023

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including the appearance of the Petitioner/Accused No-2 in C.C. No. 55 of 2020 on the file of Judicial Magistrate of 1st class for Railways, Guntur, Guntur District against the Petitioner/Accused pending disposal of the main criminal petition and to pass

Counsel for the Petitioner/accused:

1.GAJJALA MALLIKARJUNA REDDY

Counsel for the Respondent/complainant(S):

1.ARUN SHOWRI G

2.PUBLIC PROSECUTOR (AP)

3.T V P SAI VIHARI

The Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CRIMINAL PETITION NO: 980 OF 2023

ORDER

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for brevity 'CrPC') has been filed by the petitioner/ Accused No.2, to quash the charge sheet in Calendar Case No.55 of 2020 pending on the file of the learned Judicial Magistrate of First Class for Railways, Guntur, arising out of a case in Crime No.392 of 2016 of Arundalpet Police Station, Guntur Urban, registered against the petitioner/Accused No.2 and other accused, for the offences punishable under Section 468, 470 and 420 read with 34 of the Indian Penal Code, 1860 (for brevity 'IPC').

2. Contents of the charge sheet, in brief, are that respondent No.2/*de facto* complainant is resident of Vidyanagar, Guntur and eking out his livelihood by doing business; that respondent No.3/A1 availed loan of Rs.65,000/- from respondent No.2/*de facto* complainant by executing a promissory note, and when respondent No.3/A1 failed to repay the same, respondent No.2/*de facto* complainant got filed Original Suit No.347 of 1997 on the file of the learned Principal Senior Civil Judge, Guntur for recovery of suit amount of Rs.79,625/- along

with interest; that the said suit was decreed in favour of respondent No.2/*de facto* complainant on 18.02.1999; that the respondent No.2/*de facto* complainant got filed E.P.No.293 of 2000 in O.S.No.347 of 1997 and got attached the house property to an extent of 156 square yards situated in Door No.4-19-111/1, 5th lane, Vikas Nagar Guntur; that the Executing Court conducted auction the house property on 27.10.2004 and the respondent No.2/*de facto* complainant became the highest bidder; that the Executing Court issued Sale Certificate and directed the Sub-Registrar, Guntur for registration of sale pertaining to the house property; that when the Court Amin went to schedule house property to deliver the property to the respondent No.2/*de facto* complainant, the respondent No.3/A1 raised objection.

(b) During the pendency of O.S.No.347 of 1997, the wife and sons of respondent No.3/A1 were alleged to have filed a collusive suit *vide* O.S.No.307 of 1998 on the file of the learned Principal Senior Civil Judge, Guntur for Partition, and the said suit was preliminarily decreed and later obtained Final Decree and allotted the properties to the minor sons of respondent No.3/A1.

(c) Aggrieved by the Decree and Judgment passed in O.S.No.347 of 1997, the respondent No.3/A1 preferred appeal *vide* Appeal Suit No.30 of 2014 on the file of the learned IV Additional

District Judge, Guntur, and the said appeal was dismissed on 23.09.2015; that subsequent to dismissal of appeal suit, when the respondent No.2/*de facto* complainant got filed an application before the learned Principal Senior Civil Judge, Guntur for delivery of house property, the Court Amin delivered the possession accordingly; that while the matter stood thus, respondent No.3/A1 was alleged to have sold the house property by creating a fake Sale Deed in favour of accused No.2 *vide* Document No.6079/2015, with a dishonest intention to grab the property; that accused Nos.1 and 2 were alleged to have conspired together, mutated the name of A2 and got obtained Electricity Service Connection No.1122500063788.

(d) Accused No.2 got filed O.S.No.479 of 2016 on the file of the learned V Additional District Judge, Guntur, against the respondent No.2/*de facto* complainant seeking the relief of Declaration; that accused No.2, with a dishonest intention, was alleged to have created Class I charge over the house property, availed loan of Rs.65.00 lakhs from the Kotak Mahindra Bank Limited, HB Colony Branch, Nallapadu. The case was reported to police on 22.12.2016 and a case in Crime No.392 of 2016 was registered against the accused Nos.1 and 2 for the aforesaid offences and investigated into. After completion of investigation, the Investigating Officer filed Charge Sheet. The accused

Nos.1 and 2 were alleged to have conspired together in making forged documents, used them as genuine one and cheating the respondent No.2/*de facto* complainant. Hence, the Charge Sheet.

3. Learned counsel for the petitioner/A2 would contend that even if the allegations in the charge sheet are taken, they does not constitute any offence as against the petitioner/A2. The respondent No.2/*de facto* complainant due to grudge over the petitioner/A2 and to harass him, the present case is foisted against him by making false, frivolous, vexatious allegations with ill-motive. Learned counsel further contends that the petitioner/A2 purchased the house property from respondent No.3/A1 under Registered Sale Deed *vide* Doc.No.6079/2015 of SRO Koritepadu, Guntur and since then he has been in absolute possession of the said schedule house property. According to learned counsel, the petitioner/A2 obtained the bank loan from Kotak Mahindra Bank Limited, Nallapadu Branch, Guntur by keeping the schedule property as a collateral security and the bank authorities, after verifying the documents, and after obtaining legal opinion, sanctioned loan of Rs.65.00 lakhs in the month of November, 2015 and the loan transaction was also registered by depositing title deed *vide* Doc.No.7219/2015, dated 25.11.2015.

Learned counsel would further contend that the respondent No.2/*de facto* complainant kept silent till 2016 for delivery of possession, which itself shows *mala fide* and suspicious intention on his part and the delivery of possession of house property by the Court was on 05.08.2016 *i.e.* which is subsequent to his purchase. It is further contended that the alleged Registration entry dated 03.11.2016 in favour of respondent No.2/*de facto* complainant is not valid in the eye of law, as the purchase of schedule house property by petitioner/A2 under Registered Sale Deed was much prior to the said registration. According to learned counsel, the respondent No.2/*de facto* complainant only to cause loss to the petitioner/A2 and to gain unlawfully, and to harass the petitioner/A2, filed the present case and if the proceedings are allowed to be continued, the petitioner/A2 would suffer grave injustice. Hence, it is prayed to quash the charge sheet.

4. Learned counsel for the respondent No.2/*de facto* complainant would contend that the delivery warrant in respect of the schedule property was issued on 05.08.2016, as the appeal against the Judgment and Decree in O.S.No.347 of 1997 was dismissed on 23.09.2015 and in the meantime, the respondent No.3/A1, conspired with the petitioner/A2, with a dishonest intention to grab the schedule house property, created a fake Sale Deed in favour of petitioner/A2

vide Doc.No.6079/2015 only to defeat the claim of respondent No.2/*de facto* complainant. Learned counsel would further contend that the dishonest intention of petitioner/A2 to cheat the respondent No.2/*de facto* complainant by conspiring together with respondent No.3/A1, is very much clear, and that there are specific overt acts to connect the petitioner/A2 to the alleged offences and they are disputed questions of fact, which cannot be decided in a petition under Section 482 CrPC. Hence, it is prayed to dismiss the Criminal Petition.

5. Learned counsel for the respondent No.3/A1 would contend that the transaction occurred between the petitioner/A2 and respondent No.3/A1 in respect of the sale of house property under Registered Sale Deed *vide* Document No.6079/2015 of SRO, Koritapadu, Guntur Town on 30.09.2015 is valid and the allegations levelled as against the respondent No.3/A1 that he conspired together with the petitioner/A2 is far away from truth.

6. Learned Special Assistant Public Prosecutor for the State representing the respondent No.1 concurred with the submission made by the learned counsel for the respondent No.2/*de facto* complainant and prayed the Court to dismiss the Criminal Petition.

7. Heard learned counsel for the petitioner/A2, learned Special Assistant Public Prosecutor for the State/R1, learned counsel

for respondent No.2/*de facto* complainant, and learned counsel for the respondent No.3/A1. Perused the entire material available on record.

8. There cannot be any dispute that inherent powers of this Court under Section 482 CrPC can be exercised to prevent abuse of process of Court or to give effect to any order under the Code or to secure the ends of justice. This Court is also conscious of the fact 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 and that the Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the report. On this aspect, it is pertinent to refer to the judgment of the Hon'ble Apex court in ***State of Haryana v. Ch.Bhajanlal and Ors.***¹, wherein the Hon'ble Apex Court held as under:

“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

¹ AIR 1992 SC 604.

channelized and inflexible guidelines or rigid formulae 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 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 wrecking vengeance on the accused and with a view to spite him due to private and personal grudge.”

9. Section 417 of IPC prescribes punishment for cheating. Section 415 of IPC defines 'cheating'. The essential ingredients to attract the offence of cheating are –

- (1) Deception of any person;
- (2)(a) Fraudulently or dishonestly inducing that person-
 - (i) to deliver any property to any person; or
 - (ii) to consent that any person shall retain property; or
- (b) Intentionally inducing that person to do or omit to do anything which he would not do or omit, if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.”

First part of the offence of cheating would relate to property and second limb of the provision would not relate to the property. That the person should intentionally induce the complainant to do or omit to do a thing. In the second part inducing must be intentional and a guilty intention is essential ingredient for the offence of cheating.

10. To attract the offence punishable under Section 420 of IPC, there should be dishonest intention to cheat the others right from the beginning. The word 'cheating' is defined under Section 415 of IPC, which is extracted as under:

“415. Cheating. – Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any

property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'."

The essential ingredients to attract an offence punishable under Section 420 of IPC, which is an aggravated form of an offence are Section 417, are dishonest inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or signed or is capable of being converted into a valuable security, and *mens rea* of the accused at the time of making inducement. The Hon'ble Supreme Court in **Ram Narayan v. CBI**² held that *Section 420 of IPC deals with cheating and dishonestly inducing delivery of property. The offence of cheating is made of two ingredients; deception of any person and fraudulently or dishonestly inducing that person to deliver any property to any person or to consent that any person shall retain any property. To put it differently, the ingredients of the offence are that the person deceived delivers to someone a valuable security or property, that the person so deceived was induced to do so, that such person acted on such inducement in consequence of his having been deceived by the accused and that the accused acted fraudulently or dishonestly when so inducing the person. To constitute the offence*

² (2003) 3 SCC 641.

of cheating, it is not necessary that the deception should be by express words, but it may be by conduct or implied in the nature of the transaction itself.

11. The essential ingredients of the offence under Section 468 of IPC are that the accused must have made, signed, or altered a document or electronic record dishonestly or fraudulently. The forged document must be created with the deliberate intention to deceive another party, leading to potential wrongful gain or loss, and the perpetrator must intend that the forged document be used for the purpose of cheating. Section 470 of IPC defines a forged document as a false document made by forgery. The term 'forgery' used in these two sections is defined in Section 463 of IPC. Whoever makes any false documents with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into express or implied contract, or with intent to commit fraud or that the fraud may be committed, commits forgery. It is closely linked to Section 471 of IPC, which deals with using such documents as genuine, and requires proof that the document was created or altered dishonestly or fraudulently.

12. A perusal of the material on record goes to show that admittedly, the respondent No.2/*de facto* complainant filed O.S.No.347

of 1997 against respondent No.3/A1 on the file of the learned Principal Senior Civil Judge, Guntur for recovery of suit amount of Rs.79,625/-. As per the contents of the charge sheet, the said suit was decreed in favour of respondent No.2/*de facto* complainant on 18.02.1999, and for realization of the said decretal amount, the respondent No.2/*de facto* complainant got filed E.P.No.293 of 2000 on the file of the learned Principal Senior Civil Judge, Guntur. According to learned counsel for the respondent No.2/*de facto* complainant, the schedule house property which is in an extent of 156 square yards situated in Door No.4-19-111/1, 5th lane, Vikas Nagar, was got attached to the aforesaid EP proceedings and the Executing Court conducted auction over the said property on 27.10.2004, in which the respondent No.2/*de facto* complainant was the highest bidder, and accordingly, the Executing Court issued Sale Certificate in respect of the schedule house property in favour of respondent No.2/*de facto* complainant.

13. A perusal of the contents of the charge sheet goes to show that during the pendency of O.S.No.347 of 1997, the wife and sons of respondent No.3/A1 got filed O.S.No.307 of 1998 on the file of the Principal Senior Civil Judge, Guntur for the relief of Partition, contending that the schedule house property, which was attached to E.P.No.293 of 2000 in O.S.No.347 of 1997, is their ancestral property.

As per the contents of the charge sheet the said suit was preliminary decreed, and was also decreed finally as per the Order in I.A.No.1178 of 2002, dated 03.03.2003.

14. A perusal of the contents of the charge sheet further goes to show that the Executing Court issued Delivery Warrant on 05.08.2016 and he was said to have visited the schedule house property on 10.08.2016 and delivered possession of property to respondent No.2/*de facto* complainant in the presence of L.W2/Devarapalli Srinivasarao, L.W3/Katragadda Rama Krishna Prasad, L.W4/Bodi Babu Narendra Prasad and L.W5/Katragadda Sivaji.

15. In this regard, a perusal of the statements of L.W2/Devarapalli Srinivasarao, L.W3/Katragadda Rama Krishna Prasad, L.W4/Bodi Babu Narendra Prasad and L.W5/Katragadda Sivaji recorded under Section 161 of CrPC goes to show that the Court Amin handed over the vacant possession of schedule house property to the respondent No.2/*de facto* complainant. Their statements *prima facie* does not disclose any act to connect the petitioner/A2 to the offence punishable under Sections 420, 468 and 470 of IPC.

16. A perusal of the additional material papers got filed by the petitioner/A2 goes to show that the petitioner/A2 filed O.S.No.479 of 2016 on the file of the V Additional District Judge, Guntur against the

respondent No.2/*de facto* complainant, accused No.1 and the Sub-Registrar, SRO, Koritapadu, Guntur, seeking the relief of Declaration over the schedule house property, recovery of possession and other reliefs. The contention taken by the petitioner/A2, who is plaintiff in O.S.No.479 of 2016 in the said suit was, he purchased the schedule house property for a total sale consideration of Rs.25,03,000/- under Registered Sale Deed *vide* Doc.No.6079/2015 of SRO, Koritapadu, Guntur Town on 30.09.2015. According to petitioner/A2, at the time of registration, there were no encumbrances over the schedule house property. It is the contention of petitioner/A2 that subsequently he came to know that the respondent No.2/*de facto* complainant purchased the schedule house property in the Court Auction conducted by the learned Principal Senior Civil Judge, Guntur on 05.04.2004 in E.P.No.293 of 2000 in O.S.No.347/1997 in consequent to the decree, dated 18.02.1999 passed in O.S.No.347 of 1997 in favour of respondent No.2/*de facto* complainant. It was also contended in the said suit proceedings that the delivery of possession in favour of respondent No.2/*de facto* complainant, who is Defendant No.1 in O.S.No.479 of 2016, is a paper delivery and he is never in possession and enjoyment of the schedule house property.

17. This Court perused the entire material on record placed by either of the parties. As per the version of petitioner/A2, he purchased the schedule house property from respondent No.3/A1 on 30.09.2015. As per the contents of the charge sheet, the court auction, in respect of the same schedule house property, though conducted on 25.10.2004, delivery of possession of the same was made on 05.08.2016 *i.e.* subsequent to Registered Sale Deed *vide* Doc.No.6079/2015, dated 30.09.2015 which was executed between the petitioner/A2 and respondent No.3/A1. Therefore, it can be inferred that the respondent No.3/A1 is having knowledge that the schedule house property was once auctioned in the Court, and knowing fully well that the said house property was got attached and it is under litigation, sold the same to the petitioner/A2 under Registered Sale Deed dated 30.09.2015. However, merely, because respondent No.3/A1 is having knowledge, it cannot be inferred that the petitioner/A2 is also well aware of the said fact and conspiracy cannot be attributed to the petitioner/A2 that he conspired together with respondent No.3/A1, for the reason that, soon after knowing the fact that the schedule house property was auctioned in Court and the same was purchased by respondent No.2/*de facto* complainant and delivered the possession on 05.08.2016, the petitioner/A2 filed O.S.No.479 of 2016 on the file of the V Additional District Judge, Guntur against the respondent No.2/*de facto*

complainant, A1 and others, seeking the relief of Declaration over the schedule house property and recovery of possession.

18. Learned counsel for the petitioner/A2 would contend that there is no averment or allegation in the charge sheet that the petitioner/A2 made any false and fraudulent representation and made the respondent No.2/*de facto* complainant to part with money, property or act to his detriment and therefore, no case of cheating and forgery under Sections 420, 468 and 470 of IPC are made out. He placed strong reliance on the proposition of law laid down in **Mohammed Ibrahim and others v. State of Bihar and another**³, wherein the Hon'ble Supreme Court held as under: (paragraph Nos.20 to 23)

“20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheating him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But, in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.

21. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did

³ (2009) 8 Supreme Court Cases 751 : (2009) 3 Supreme Court Cases (Crl) 929 : 2009 SCC OnLine SC 1594.

the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

22. *As the ingredients of cheating as stated in Section 415 are not found, it cannot be said that there was an offence punishable under Sections 417, 418, 419 or 420 of the Code.*

23. *When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint.”*

Learned counsel also placed reliance on the proposition of law laid down in **Sheila Sebastian v. R.Jawaharaj and another**⁴, wherein, the Hon'ble Supreme Court held as under: (paragraph Nos.25 and 30)

“25. Keeping in view the strict interpretation of penal statute i.e. referring to rule of interpretation wherein natural inferences are preferred, we observe that a charge of forgery cannot be imposed on a person who is not the maker of the same. As held in plethora of cases, making of a document is different than causing it to be made.

⁴ (2018) 7 Supreme Court Cases 581 : (2008) 3 Supreme Court Cases (Cri) 275 : 2018 (SCC OnLine SC 522.

As Explanation 2 to Section 464 further clarifies that, for constituting an offence under Section 464 it is imperative that a false document is made and the accused person is the maker of the same, otherwise the accused person is not liable for the offence of forgery.

30. Although we acknowledge the appellant's plight who has suffered due to alleged acts of forgery, but we are not able to appreciate the appellant's contentions as a penal statute cannot be expanded by using implications. Section 464 IPC makes it clear that only the one who makes a false document can be held liable under the aforesaid provision. It must be borne in mind that, where there exists no ambiguity, there lies no scope for interpretation. The contentions of the appellant are contrary to the provision and contrary to the settled law. The prosecution could not succeed to prove the offence of forgery by adducing cogent and reliable evidence. Apart from that, it is not as though the appellant is remediless. She has common law remedy of instituting a suit challenging the validity and binding nature of the mortgage deed and it is brought to our notice that already the competent civil Court has cancelled the mortgage deed and the appellant got back the property."

19. In the case on hand also, the petitioner/A2 purchased the schedule house property from respondent No.3/A1 under a Registered Sale Deed dated 30.09.2015, and thereafter, he availed loan from the Bank, but, subsequently in the year 2016, the Executing Court passed an Order holding that the schedule house property belonged to some other person but not respondent No.3/A1. Even accepting the entire allegations, the petitioner/A2 is a bonafide purchaser, for the reason that, as on the date of purchase of schedule house property, as per the

Encumbrance Certificate filed by the petitioner/A2, the schedule house property stands in the name of respondent No.3/A1. *Prima facie*, there is no material on record to believe that the petitioner/A2 that by the act of purchasing the schedule house property from the respondent No.3/A1, deceived the respondent No.2/*de facto* complainant. Indeed, it is the respondent No.3/A1, who is aware of the fact of schedule house property was being auctioned by the Court. Therefore, it can be inferred that the all the material allegations are pointing towards respondent No.3/A1 and *prima facie* there is no material on record to connect the petitioner/A2 to the alleged offences. When such being the case, continuing the proceedings against the petitioner/A2 is nothing but abuse of process of law. In the facts and circumstances of the case, this Court is of the opinion that the allegations made in the charge sheet, 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 petitioner/A2, and on that ground alone, this Court is inclined to quash the *impugned* proceedings.

20. Accordingly, the Criminal Petition is allowed and the proceedings in Calendar Case No.55 of 2020 pending on the file of the learned Judicial Magistrate of First Class for Railways, Guntur, against the petitioner/A2, are quashed.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

JUSTICE K. SREENIVASA REDDY

17th June, 2026.

Note:

LR Copy to be marked.

B/o.
DNB