

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 15TH DAY OF JUNE 2011

PRESENT

THE HON'BLE MR.JUSTICE N.ANANDA

AND

THE HON'BLE MR.JUSTICE V.S.APPA RAO

CCC (CRL) NO.6/2011

BETWEEN:

Anwar
S/o.late Dawoodsab
Aged 51 years
Muddanpalli Village
Ramkoppam Taluk
Chittoor District
Andhra Pradesh.

... COMPLAINANT

(By Sri Ananth V. Albal, Adv.)

AND:

1. Afsar Pasha
S/o Ghouse Shariff
Aged about 56 years
Businessman at Chinnaasandra
Taluk:Chintamani
Chickballapur District.

2. D.Manjunath
S/o.Dwarakanath
Stamp Vendor, Chintamani
Chickballapur District.

ACCUSED

This Crl.CCC is initiated under Section 11 of the Contempt of Courts Act, 1971 r/w. Article 215 of Constitution of India praying that this Hon'ble Court may be pleased to initiate action against the contemnners and hold a trial and punish them of criminal contempt of Court and impose sentences of fine and imprisonment.

This ^{Cal} CCC coming on for orders this day, N.ANANDA. J., made the following:

ORDER

The petitioner is the complainant in C.C.No.16/2003 pending before the learned JMFC at Chintamani. The complaint was initiated alleging offences punishable under Sections 420, 465, 467, 468 and 474 of IPC against the respondents herein.

2. The basic allegations of complaint are that the first respondent took the complainant to the Sub Registrar Office on 18.11.1993 and fraudulently got executed a registered sale deed in respect of land bearing Survey No.197 to an extent of 4 acres situated at Chinnesandra village, Chintamani Taluk. As the survey number in the registered document dated

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18.11.1993 was wrongly mentioned as 17 instead of 197, the first respondent in connivance with second respondent took some other person and impersonated that person as complainant and got executed the registered rectification deed dated 18.8.1994. The complaint filed on these allegations is pending trial in C.C.No.16/2003.

3. The respondents were before this Court in Criminal No.3537/2004 for quashing the proceedings in C.C.No.16/2003. This Court dismissed the petition with the following directions:

"In view of the same, while disposing of the criminal petition, it would be appropriate to direct the learned Magistrate to secure the thumb impression of the complainant/respondent and also on that of the admitted document and get the opinion of the expert and also examine the expert as one of the witnesses in addition to other witnesses and thereafter, dispose of the matter in accordance with law. In the event if it is proved that the complainant has filed

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a false complaint against the petitioner, then the Magistrate shall proceed against the complainant himself. However, it is made clear that if the Magistrate takes a view in the course of the proceedings that there is no prima facie case, he shall very well consider the application filed by the petitioner for discharge and pass orders in accordance with law. Ordered accordingly."

4. It is the grievance of petitioner that respondents who are accused before the trial Court are putting obstructions before the trial Court for the comparison of the thumb impressions as contained in the directions stated supra. If the respondents are obstructing the proceedings before the Court below, it is for the learned trial Judge to make a reference to this Court to initiate contempt proceedings.

5. The learned Magistrate has to comply with the directions issued by this Court in CrI.P.No.3537/2004. The respondent/accused are facing trial for offences alleged against them in C.C.No.16/2003. If respondents

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have committed offences as alleged by the complainant, it is for the trial Court to decide the same in accordance with law. If the accused are obstructing the proceedings pending before the trial Court, it is for the trial Court to take appropriate action against them. Therefore, this contempt petition, which is almost in the nature of a parallel complaint pending trial, cannot be entertained.

6. With these observations, petition is dismissed.

Sd/-
JUDGE

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JUDGE

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