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Court : Andhra Pradesh

Decided On : Dec-28-2011

Judge : G.Krishna Mohan Reddy, J.

Acts : Code of Criminal Procedure (CrPC), - Section 482, 24, 23, 195; [Indian Penal Code \(45 of 1860\)](#) - Section 467, 468, 420 34, 463, 415, 172 to 188;

Appeal No. : CRIMINAL PETITION No.521 of 2009

Appellant : V.G.A.Dayasagar and 2 ors

Respondent : State of A.P., Rep. by P.P. and Another

Advocate for Pet/Ap. : P.KRISHNA REDDY, Adv.

Judgement :

G.KRISHNA MOHAN REDDY, J.

ORDER

1. This Criminal petition is filed under Section 482 Cr.P.C. seeking to quash proceedings in Crime No.214 of 2008 on the file of Yemmiganur Town Police Station, Kurnool District/the Court of Judicial Magistrate of First Class, Yemmiganur, insofar as the petitioners-A1 to A3 (for short A1 to A3) are concerned. The case is registered for offences punishable under Sections 467, 468, 420 read with Section 34 I.P.C.

2. Whereas the petitioners are A1 to A3, the 2nd respondent is the defacto complainant in the criminal case. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the criminal case.

3. The facts of the case in brief are as follows:

The defacto complainant purchased an extent of Ac.2.67 cents of land in Sy.No.388-B from one Ch.Veeraswamy under a registered sale deed No.1195 dated 13.06.1978 and thus acquired absolute rights over the said property. Dhanunjaya (A-2) and his brothers are interfering with his rights over the property without any manner of right. On enquiry, it was revealed that K.Abdul Kalik (A-3) along with one V.G.R.Anjaneyulu, the brother of the defacto complainant, got created a registered sale deed No.3808 dated 03.11.1993 in respect of Ac.1.76 cents of land in Sy.No.388-A in favour of A-3 without any manner of right and they took the sons of the defacto complainant i.e., Ravikumar and Raviteja to one B.Bangari and from there to the house of one D.Mallikarjuna, advocate (A-4) on 22.10.2008 in respect of that issue and asserted with the sons of the defacto complainant that the defacto complainant had sold away the property to them and A-2 would pay the sale consideration, which the sons of the defacto complainant refused. At that time A-4 altered the Survey number from 388-A to 388-B fraudulently in the relevant document. Further with the help of the said forged document, they filed a suit against the defacto complainant on the file of the Junior Civil Judge, Yemmiganur and obtained an injunction order in favour of A-3. With the help of the said fake document and thereby they cheated the Court also in obtaining that injunction order.

4. It is the contention of learned Counsel for A1 to A3 that there is no element of cheating with regards to the sale of the property and obtaining the injunction and hence Section 420 I.P.C. is not attracted and further the ingredients of Sections 467, 468 apart from Section 420 read with Section 34 I.P.C. are also not attracted in the present case as the document claimed by A1 to A3 is a true one and hence the proceedings initiated against A1 to A3 amount to abuse of the process of law and the same may be quashed. He has also contended that the matter involves purely civil liability to take cognizance of it on the criminal side.

5. On the other hand, the learned counsel for the defacto complainant and the learned Additional Public Prosecutor have opposed the petition claiming that the allegations made against A1 to A3 clearly attract the said provisions of law.

6. The point for consideration is whether there are sufficient grounds to quash the proceedings initiated against A1 to A3 for the offences punishable under Sections 467, 468, 420 read with Section 34 IPC ?

7. In order to attract the provisions of Section 467 and 468 IPC, the ingredients of Section 463 and 464 IPC are to be satisfied. Section 463 IPC enjoins;

"Whoever makes any false document or part of a document 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 any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery." Section 464 IPC enjoins;

"A person is said to make a false document or false electronic record - First - Who dishonestly or fraudulently -

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any electronic signature on any electronic record;

(d) makes any mark denoting the execution of a document, or the authenticity of the electronic signature. with the intention of causing it to be believed that such document or part of a document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed sealed, executed or affixed; or Secondly - Who, without lawful authority, dishonestly or fraudulently by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or Thirdly - Who

dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration."

8. In order to bring the case within the purview of the first part of Section 464 IPC, it must be that it was made intending it to be believed that it was made or signed or executed by or by the authority of the defacto complainant by whom or by whose authority they knew that it was not made or signed.

9. In order to attract the second part, it must be that without lawful authority dishonestly or fraudulently by cancellation or otherwise A1 to A3 altered the document after it was made, executed either by one of themselves or by any other person whether such person was living or dead at the time of such alteration. Then it poses a question as to whether the execution of a different document which has the effect of nullifying the first document with reference to the particular property, when it was done with dishonest or fraudulent intention would fall within the ambit of the second part of the section. In this context, it needs to examine what is meant by cancellation and alteration and the intendment of relevant illustrations provided under Section 464 IPC.

10. In the Oxford Dictionary & Thesaurus 2007 Edn., in this context, the word 'cancel' means 'withdraw from or end a formal arrangement' or 'annul' or 'invalidate' or 'nullify', 'declare null and void', 'revoke', 'rescind', 'retract' etc. The execution of the second document has the effect of ending a formal arrangement made in favour of the defacto complainant in the first document or annulling it or nullifying it or revoking it or rescinding it retracting it. It can be done by making necessary endorsement in the same document or by creating another document correspondingly. The meaning of 'alteration' in the dictionary is change, adjustment, adaptation, modification, variation, revision, amendment, rearrangement, reordering, restyling, rejigging, reworking, revamping, sea change, transformation. The meaning of 'reorder' in the dictionary is order goods again,

arrange something again or differently. The meaning of 'revision' in the dictionary is correction, alteration, adaptation, editing, rewriting, redrafting, reconsideration, review, re-examination, reassessment, re-evaluation, reappraisal, rethink, change, alteration, modification. So the execution of the second document is also in the form of reordering or rearranging or redrafting or even varying the transaction covered by the first document in favour of the defacto complainant, which also can be done by creating or executing a different document correspondingly. On the other hand, in case, 'X' sells his property in favour of 'Y' and subsequently he or his legal heir (who steps into the shoes of 'X' with regards to the properties of 'X') sells the property to 'Z' dishonestly or fraudulently, it also amounts to revising, rewriting, reviewing, re-evaluating, revoking, rescinding and retracting the earlier document or the earlier transaction. In other words, executing the second document would amount to cancelling or altering the transaction covered by the first document in the terms narrated in spite of the fact that no modification of the contents therein was made to that effect in the very same document. The main criteria here therefore is whether the creation of the second document amounts to or meant for cancelling the whole part of the earlier document either expressly or impliedly or not as narrated respectively.

11. Emphatically, the second part of the section itself without ambiguity postulates that cancellation of a document made by himself or by any other person whether such person was living or dead at the time of cancelling it would amount to alteration in any material part of it, whereas it further enjoins that it would amount to forgery if it was done without lawful authority or fraudulently whereby executing the second document by one of the accused conveying the property to third person claiming it to be the absolute owner of the property would amount to cancelling the purport of the earlier document by doing so on a future date whether antedated or not.

12. What signifies is that not only the cases of creation of false documents by forging the signatures of first person by impersonation dishonestly or fraudulently and so also the cases of creation of false documents by the first person by altering or cancelling such document executed by him earlier in favour of another dishonestly or fraudulently would come within the purview of the provisions of

Section 463 read with Section 464 IPC. In other words, those acts covered by the second part of Section 464 IPC, of creation of false documents are to be termed as acts of forgery within the meaning of Section 463 IPC.

13. The intendment of the legislation can be better understood by going through the relevant illustrations provided under Section 464 IPC. Illustration (f) thereunder reads "Z's will contains these words- 'I direct that all my remaining property be equally divided between A, B and C'. 'A' dishonestly scratches out 'B's name, intending that it may be believed that the whole was left to himself and 'C'. 'A' has committed forgery. Illustration (g) reads "A' endorses a Government promissory note and makes it payable to 'Z' or his order by writing on the bill the words 'Pay to 'Z' or his order' and signing the endorsement. 'B' dishonestly erases the words 'pay to 'Z' or his order' and thereby converts the special endorsement into a blank endorsement. 'B' commits forgery". Illustration (h) reads "A' sells and conveys an estate to 'Z'. 'A' afterwards, in order to defraud 'Z' of his estate, executes a conveyance of the same estate to 'B', dated six months earlier than the date of the conveyance to 'Z', intending it to be believed that he had conveyed the estate to 'B' before he conveyed it to 'Z'. 'A' has committed forgery. Illustration (i) "Z' dictates his will to 'A'. 'A' intentionally writes down a different legatee from the legatee named by 'Z', and by representing to 'Z' that he has prepared the will according to his instructions, induces 'Z' to sign the will. 'A' has committed forgery. Emphatically, there is no question of any impersonation covered by these illustrations.

14. In SHIV BAHADUR SINGH v. STATE OF V.P.1 (judgment given by Bench consisting of 3 Judges of the Supreme Court) the accused therein at Delhi signed a document extending a lease to a Diamond Cutting Company on 11.4.1949, but the deed was ante dated to 1.4.1949 with a view to show that resumption order had already been granted by the accused, the authority to extend the lease and to allow resumption of the extraction of Diamond, this ante dating was made in lieu of Rs.25,000/- paid to the accused as a bribe. It was held to be a forgery.

15. However, because unless the act was done without lawful authority either dishonestly or fraudulently, the application of Section 463 read with Section 464

IPC does not arise at all. Section 24 of the Code contemplates "whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person is said to do that thing dishonestly." Section 23 of the Code contemplates as follows: 'Wrongful gain' is gain by unlawful means of property to which the person gaining is not legally entitled. 'Wrongful loss' is the loss by unlawful means of property to which the person losing it is legally entitled.

16. So a person can be said to have dishonest intention if in taking the property it is his intention to cause gain, by unlawful means, of the property to which the person so gaining is not legally entitled or to cause loss, by wrongful means, of the property to which the person so losing is legally entitled. The definition does not provide that the gain or loss contemplated need to be a permanent one or a total one. In other words, it implies that even temporary gain or loss contemplated is covered by the section.

17. About "Fraud" in *VIMLA v. DELHI ADMINISTRATION*², the Apex Court held as under:

"Fraudulently" is defined in S. 25 thus :

'A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise'. The word "defraud" includes an element of deceit. Deceit is not an ingredient of the definition of the word "dishonestly" while it is an important ingredient of the definition of the words "fraudulently". The former involves a pecuniary or economic gain or loss while the latter by construction excludes that element. Further the juxtaposition of the two expressions "dishonestly" and "fraudulently" used in the various sections of the Code indicates their close affinity and therefore the definition of one may give colour to the other. To illustrate, in the definition of "dishonestly", wrongful gain or wrongful loss is the necessary ingredient. Both need not exist, one would be enough. So too, if the expression "fraudulently" were to be held to involve the element of injury to the person or persons deceived, it would be reasonable to assume that the injury should be something others than pecuniary or economic loss. Though almost always an advantage to one causes loss to another and vice versa, it need not necessarily be so, Should we held that the concept of "fraud" should include not

only deceit but also some injury to the person deceived, it would be appropriate to hold by, analogy drawn from the definition of "dishonestly" that to satisfy the definition of "fraudulently" it would be enough if there was a non-economic advantage to the deceiver or a non-economic loss to the deceived. Both need not co-exist."

18. The question is whether the prosecution version that A1 to A3 dishonestly created the registered sale deed and also involved in altering the relevant document deceiving the sons of the defacto complainant attracts the definitions of 'dishonesty' and 'fraud'.

19. With regards to the question of cheating, Section 415 IPC mandates that 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". Explanation thereunder reads that a dishonest concealment of facts is a deception within the meaning of this section. Inducing the sons of the defacto complainant to follow them (A1 to A3) and to part with relevant document and when accordingly the sons of the defacto complainant parted with the document believing them (A1 to A3) altering the survey numbers therein, definitely would come within the purview of the definition of 'cheating'.

20. Further, in the facts and the circumstances of the case, it is needed to examine whether the case falls within the ambit of the first clause of Section 195 Cr.P.C. This provision adumbrates;

"Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence:

(1) No Court shall take cognizance:-

(a)(i) of any offence punishable under Section 172 to 188 (both inclusive) of the [Indian Penal Code \(45 of 1860\)](#), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following Sections of the [Indian Penal Code \(45 of 1860\)](#), namely Sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in Section 463, or punishable under Section 471, Section 475 or Section 476 of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding, in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause(ii), except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

21. In the context of A1 to A3 filing the suit and obtaining interim injunction basing upon the alleged forged sale deed in question, it is necessary to deliberate whether the production of the document in the civil suit for the purpose of recording relevant evidence or recording the evidence accordingly would debar the complainant from filing the corresponding charge sheet or when once it was filed, it would render the charge sheet not maintainable in view of the provisions encompassed in clause (1)(b)(ii) of Section 195 Cr.P.C.

22. A thorough reading of the provisions of Section 195 Cr.P.C. makes it categorical that the ambit of it is limited to the cases of contempt of lawful authority of public servants for offences against public justice and for offences relating to documents given in evidence. Thereby, it is logical to construe that the restrictions

or mandates given therein are to be considered within the sphere of that caption. This clearly excludes the commission of any of the offences specified therein not in the said context of contempt of lawful authority of the public servants. Without taking the aid of the preamble, in fact a plain reading of the relevant provision of the section gives an understanding that no court shall take cognizance of any offence prescribed in Section 463 IPC or that punishable Section 471 and Section 475 or Section 476 IPC alleged to have been committed in respect of a document produced or given in evidence in a proceeding, except on the complaint in writing of that court or by such officer of the court authorised to do so irrespective of whether it took place during the same proceeding before the said authority or otherwise, contradicts the preamble which imposes a restriction to prosecute only those who involved in contempt of the lawful authority of the public servants for the offences against public justice and for the offences relating to documents produced or given in evidence in a proceeding before the authority. In the true sense, the commission of those offences outside the purview of the lawful authority of the public servants cannot be held to be contempt of the lawful authority of the public servants. At best, the very use of false documents before the authority may amount to contempt of the lawful authority.

23. In this context, it needs to refer to sub-section (1) of Section 340 Cr.P.C. as it sets up procedure to enquire into any of the offences referred to in clause (b) of the sub-section (1) of Section 195 Cr.P.C. It actually contemplates:

"Procedure in cases mentioned in Section 195: (1) When upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interest of Justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of Section 195, which appears to have been committed in or in relation to a proceeding in that Court, or as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate, and

(e) bind over any person to appear and give evidence before such Magistrate. The sub-section puts the condition that before the court makes a complaint of "any offence referred to in clause (b) of Section 195(1)" the Court has to follow the procedure laid down in Section 340 Cr.P.C. In other words, no complaint can be made by a court regarding any offence falling within the ambit of Section 195(1)(b) Cr.P.C. without first adopting those procedural requirements. It is emphatical that Section 340 Cr.P.C. falls within the Chapter XXVI of the Cr.P.C. which contains provisions as to the offences affecting the administration of justice as the title of the chapter emphasizes. This way also the offences envisaged in Section 195(1)(b) Cr.P.C. must involve acts, which would have affected the administration of justice akin to the preamble of it."

24. In *SACHIDA NAND SINGH v. STATE OF BIHAR*³, the Supreme Court observed/held as under:

"(7) A reading of the clause reveals two main postulates for operation of the bar mentioned there. First is, there must be allegation that an offence (it should be either an offence described in section 463 or any other offence punishable under Ss. 471, 475, 476 of the IPC) has been committed. Second is that such offence should have been committed in respect of a document produced or given in evidence in a proceeding in any court. There is no dispute before us that if forgery has been committed while the document was in the custody of a Court, then prosecution can be launched only with a complaint made by that court. There is also no dispute that if forgery was committed with a document which has not been produced in a court then the prosecution would lie at the instance of any person. If so, will its production in a court make all the difference?

(8) Even if the clause is capable of two interpretations we are inclined to choose the narrower interpretation for obvious reasons. Section 190 of the Code

empowers "any magistrate of the first class" to take cognizance of "any offence" upon receiving a complaint, or police report or information or upon his own knowledge. Section 195 restricts such general powers of the magistrate, and the general right of a person to move the Court with a complaint is to that extent curtailed. It is a well-recognised canon of interpretation that provision curbing the general jurisdiction of the court must normally receive strict interpretation unless the statute or the context requires otherwise *Abdul Waheed Khan v. Bhawani* (1966) 3 SCR 617 : (AIR 1966 SC 1718).

(9) That apart it is difficult to interpret S. 195(1)(b)(ii) as containing a bar against initiation of prosecution proceedings merely because the document concerned was produced in a court albeit the act of forgery was perpetrated prior to its production in the Court. Any such construction is likely to ensue unsavoury consequences. For instance, if rank forgery of a valuable document is detected and the forgerer is sure that he would imminently be embroiled in prosecution proceedings he can simply get that document produced in any long drawn litigation which was either instituted by himself or some body else who can be influenced by him and thereby pre-empt the prosecution for the entire long period of pendency of that litigation. It is a settled proposition that if the language of a legislation is capable of more than one interpretation, the one which is capable of causing mischievous consequences should be averted. Quoting from *Gill v. Donald Humberstone and Co. Ltd.* (1963) 1 WLR 929 Maxwell has stated in his treatise (*Interpretation of Statutes*, 12th Edn. page 105) that "if the language is capable of more than one interpretation we ought to discard the more natural meaning if it leads to unreasonable result and adopt that interpretation which leads to a reasonably practicable result." The clause which we are now considering contains enough indication to show that the more natural meaning is that which leans in favour of a strict construction, and hence the aforesaid observation is eminently applicable here.

(10)

(11)

(12)

(13)

(14)

The issue involved in Patel Laljibhai Somabhai's case (AIR 1971 SC 1935) related to the applicability of that sub-section to a case where forged document was produced in a suit by a party thereto, and subsequently a prosecution was launched against him for offences under Ss. 467 and 471 of IPC through a private complaint. The ratio of the decision therein is the following :

'The offences about which the court alone, to the exclusion of the aggrieved private parties, is clothed with the right to complain may, therefore, be appropriately considered to be only those offences committed by a party to a proceeding in that court, the commission of which has a reasonably close nexus with the proceedings in that court so that it can, without embarking upon a completely independent and fresh inquiry, satisfactorily consider by reference principally to its records the expediency of prosecuting the delinquent party. It, therefore, appears to us to be more appropriate to adopt the strict construction of confining the prohibition contained in S. 195(1)(c) only to those cases in which the offences specified therein were committed by a party to the proceeding in the character as such party.'

(15) After stating so their Lordships proceeded to observe that the legislature could not have intended to extend the prohibition in the sub-section to offences committed by a party to the proceedings prior to his becoming such a party. According to their Lordships, any construction to the contrary would unreasonably restrict the right of a person which was recognised in S. 190 of

the Code.

(16) The aforesaid legal position was followed by this Court in Raghunath v. State of U. P. (1973) 1 SCC 564 : (AIR 1973 SC 1100), Mohan Lal v. The State of Rajasthan (1974) 3 SCC 628 : (AIR 1974 SC 299), and Legal Remembrancer of Govt. of West Bengal v. Haridas Mundra, (1976) 2 SCR 933 : (AIR 1976 SC 2225). These principles are well applicable here. In consequence of the

propositions

enumerated above, the case cannot be brought within clause (1) of Section 195 Cr.P.C.

25. However, the concerned Investigating Officer has to collect necessary material and ascertain the rights of the defacto complainant over the property and also ascertain whether the allegations made against A1 to A3 are true and correct. Emphasizingly, when there is both criminal liability and as well as civil liability in respect of an issue, the party concerned can file cases both on the criminal side and also on the civil side for the purpose of redressing his grievance and punishing the accused respectively. In the cases of this nature, often the question of ownership of a certain property do arise. When such contingency arises it is incumbent upon the police to make all endeavours to collect the material required to ascertain the question of ownership. Till that time, the question of filing relevant charge sheet would not arise at all by consequence of which, no court has to take cognizance of the charge sheet filed without adequate material to constitute a particular offence or particular offences. In this context, it is to be reiterated that without the collection of the material, which can constitute an offence or offences the question of arresting any accused also does not arise at all. Any argument that those factors, which relate to the question of ownership of a property should be tried before a Civil Court only is nothing but misconception. If that matters, the provisions relating to trespass, cheating, forgery or creation of false documents with regards to certain property or properties will have no meaning and it defeats the purpose of those provisions or the intendment of the legislation in framing those provisions. Suppose there is a question as to whether an accused trespassed into a property, the ownership or legal possession of which is in dispute without determining that factor or those factors while conducting the investigation of the case collecting relevant documentary evidence, the question of prosecuting the accused accordingly is to be ruled out. If the question of determination of either of those factors or both the factors before a civil court is the criteria to approach a criminal court for imposing necessary punishment against the person alleged to have trespassed into the property, that penal provision and so also the corresponding report given become redundant, which is not the

intendment of the legislation. If it were to be the law, great injustice is bound to be done to the accuser in safeguarding his right over the property and also in redressing his grievance. The police have the duty of maintaining the law and order and protect the properties of the citizens of the country, failing which the citizens have to face chaos in the society. They are to be well equipped with the penal laws together with relevant procedural laws to meet any requirement, which arises while discharging their duties.

26. This position is well explained in KISHAN SINGH v. GURPAL SINGH⁴ under similar circumstance, while considering decisions in M/s. Karamchand Ganga Pershad and another v. Union of India and others (AIR 1971 SC 1244), V.M. Shah v. State of Maharashtra and another (AIR 1996 SC 339), K.G. Premshankar v. Inspector of Police and another (AIR 2002 SC 3372), P. Swaroopa Rani v. M. Hari Narayana @ Hari Babu (AIR 2008 SC 1884), Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.) (AIR 2009 SC 3232), M. S. Sheriff and another v. State of Madras (AIR 1954 SC 397), Iqbal Singh Marwah v. Meenakshi Marwah (2005 (4) SCC 370) and Iqbal Singh Marwah v. Meenakshi Marwah (2009) 13 SCC 729, observed as under :

"Thus in view of the above, the law on the issue stands crystallized to the effect that the findings of fact recorded by the Civil Court do not have any bearing so far as the criminal case is concerned and vice-versa. Standard of proof is different in civil and criminal cases. In civil cases it is preponderance of probabilities while in criminal case it is proof beyond reasonable doubt. There is neither any statutory nor any legal principle that findings recorded by the court either in civil or criminal proceedings shall be binding between the same parties while dealing with the same subject matter and both the cases have to be decided on the basis of the evidence adduced therein. However, there may be cases where the provisions of sections 41 to 43 of the Indian Evidence Act, 1872, dealing with the relevance of previous Judgments in subsequent cases may be taken into consideration."

27. Therefore the Supreme Court comprehensively held that the findings of fact recorded by a Civil Court would not have any bearing so far as the criminal case is concerned and vice-versa where standard of proof is different and there is neither

any statutory nor any legal principle that the findings recorded by the Court either in civil or criminal proceedings shall be binding between the same parties while dealing with the same subject matter where both the cases are to be decided on the basis of evidence adduced therein subject to the exceptions noted.

28. Therefore, for the foregoing reasons, there are no merits in the arguments advanced by the learned Counsel for A1 to A3 and accordingly the petition is liable to be dismissed.

29. In the result, this Criminal Petition is dismissed.

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