

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.Rev.Pet.No. 796 of 2015 ()

ORDER IN CMP 4000/2014 OF THE CHIEF JUDICIAL MAGISTRATE COURT,
TRIVANDRUM DATED 27-02-2015

REVISION PETITIONER(S)/COMPLAINANT:

THE STATE BANK OF TRAVANCORE
REPRESENTED BY ITS CHIEF MANAGER SRI.V.S.KRISHNAN
STRESSED ASSETS RESOLUTION CENTRE SARC)
CHANDRASHEKARAN NAIR STADIUM COMPLEX, PALAYAM
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.JAWAHAR JOSE

RESPONDENT(S)/RESPONDENTS:

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1. DR.RENJITH SEBASTIAN
FLAT NO.G, VISMAYA DEEPA TOWERS, VRINDAVAN GARDENS
PATTOM, THIRUVANANTHAPURAM - 695 004.
 2. SMT.SOBHU RENJITH
FLAT NO.G, VISMAYA DEEPA TOWERS, VRINDAVAN GARDENS
PATTOM, THIRUVANANTHAPURAM - 695 004.
 3. SRI.P.A.RAVIKUMAR
S/O. APPUKUTTAN, AMBALAYAM, ARASUPARAMBU
NEGUMANGAD, THIRUVANANTHAPURAM DISTRICT - 695 541.
 4. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
ADVOCATES GENERAL OFFICE, ERNAKULAM.

R3 BY ADV. SRI.A.S.SHAMMY RAJ
R3 BY ADV. SMT.P.SINDHU (KARAKULAM)
R BY PUBLIC PROSECUTOR SRI.R.GITESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

Crl. R.P. No.796 of 2015

Dated this the 6th day of October, 2015.

ORDER

The revision petitioner is the complainant in C.M.P.No.4000 of 2014 on the files of the Court of the Chief Judicial Magistrate, Thiruvananthapuram, who in this revision petition challenges the order passed by the court below dismissing the complainant under Section 203 Cr.P.C.

2. Heard the learned counsel for the petitioner.

3. The case of the complainant is that the accused Nos.1 and 2 executed an agreement with the third accused, who is the promoter of Vrindavan Pattom Deepa Constructions, to purchase an apartment in Deepa Constructions as and when the construction was complete. It was agreed that as and when the construction was complete, the property would be sold to the first and the second accused. At that time, the consideration of the said transaction would be transferred to the account of the third accused from the bank. The first and

the second accused approached the complainant for a loan of ₹ 12,30,273/- and the said loan was sanctioned. It was agreed by accused Nos.1 to 3 that the original of the title deed and other documents would be produced before the bank as a security for availing the loan amount. An agreement in this regard was also executed. However, even after the registration, accused Nos. 1 to 3 did not produce the original title deed and other documents before the bank and thereby they cheated the bank.

4. It is specifically contended that there is a condition in the agreement that after the execution of the sale deed, the original title deed and other documents would be submitted before the bank for creating an equatable mortgage with the bank. However, the said documents were not produced before the bank as promised. In this case, the amount was advanced for the purpose of purchasing an apartment in Vrindavan Pattom Deepa Constructions. That money was not utilised for any other purpose. It is admitted in the complaint that the

said loan amount was utilised for the purpose of purchasing the said apartment as agreed to by the parties. Therefore the court below found that no offence under Section 406 IPC would be attracted. The court below further found that there was a provision in the agreement that in case of default on the part of the accused in creating the equitable mortgage, the bank had an option to execute the mortgage deed in its favour using the power of attorney entrusted with the bank.

5. The court below found that the facts narrated in the complaint and in the statement given by the complainant and the witnesses and the documents produced by the complainant would reveal only a breach of contract and there was no element to constitute a criminal offence. In the said circumstances, the court below rightly found that there was no ground to proceed against the accused and accordingly, the court below dismissed the complaint under Section 203 Cr.P.C .

Having gone through the relevant inputs, I find no reason

to hold that the order passed by the court below suffers from any illegality, impropriety or incorrectness, warranting interference by this Court.

In the result, this revision petition stands dismissed.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge