

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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CRIMINAL PETITION No.8251 of 2015

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ORDER:

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The present application is filed by A-1 under Section 482 Cr.P.C. seeking quashing of proceedings in Cr.No.27 of 2014 of Mailardevpally Police Station, Cyberabad registered initially against A-1 and A-2 for the offences punishable under Sections 420, 464, 471 and Section 468 IPC and later during the course of investigation, the investigating agency found involvement of A-3 to A-6 in the commission of various crimes in the city.

The case of the prosecution is as under:

The defacto complainant is the owner and possessor of the plot bearing No.269/2 admeasuring 248.25 square yards in Sy.No.134/20 situated at Meer Sagar, Mailardevpally. She acquired the same through her brother under a registered gift deed bearing document No.587/09, dated 13-02-2009. It is alleged that on 03-01-2014, A-1 and A-2 along with others with the help of forged and fake documents are trying to interfere with the property. Hence, a report came to be filed requesting the police to investigate into the matter. Challenging the very registration of crime, the present application is filed under Section 482 Cr.P.C. seeking quashing of investigation.

Learned counsel for the petitioner mainly submits that the First Information Report (F.I.R.) is silent as to the role of the petitioner in the commission of offence. He further submits that the petitioner is a mediator to the transaction between the vendor and vendee and he is not aware of the alleged fabrication of documents. He further submits that the petitioner is innocent of the offences alleged and he has been falsely implicated in the case.

Learned Public Prosecutor opposed the said application. According to him, though the F.I.R is silent as to the role played by each of the accused but the investigation made by the police reveal the involvement of the petitioner and five others in the alleged fraud.

The jurisdiction which this Court exercises under Article 226 of the Constitution of India, or under Section 482 Cr.P.C, to quash a complaint, even before completion of investigation, is limited. The law laid down, in **State of Haryana v. Ch. Bhajan Lal**, which has been followed in several other judgments of the Supreme Court, is that interference is permissible in cases (a) where the allegations made in the FIR 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; (b) where the allegations in the FIR 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; (c) where the uncontroverted allegations made in the FIR or the 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; (d) 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; and (e) where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with the ulterior motive for wreaking vengeance on the accused, and with a view to spite him due to private and personal grudge. The Supreme Court further held 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; 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; the extraordinary or

inherent powers do not confer arbitrary jurisdiction on the Court to act according to its whim or caprice; and even if a complaint has been laid only on account of personal animosity that, by itself, will not be a ground to discard the complaint containing serious allegations which have to be tested and weighed after the evidence is collected.

A reading of the remand report would categorically show that one E.Hanmaiah acquired plot No.269/1 admeasuring 248.25 square yards vide document No.4133/1981, dated 02-07-1981 and one D.Sudershan acquired plot No.269/2 admeasuring 248.25 square yards vide document No.4134/1981, dated 02-07-1981 from Shastripuram Co-operative Housing Society Limited, Rajendranagar respectively. Thereafter, the owner of the plot No.269/2 executed a registered gift settlement deed bearing document No.587/2009, dated 16-02-2009 in favour of the complainant. It is further alleged that E.Hanmaiah, who is the owner of the plot No.269/1 having purchased the same from Shastripuram Co-operative Housing Society Limited, Rajendranagar executed a G.P.A. in favour of one Ravinder vide document dated 22-03-2011. The said Ravinder executed a sale deed in favour of one Dayanand vide document No.961/2012, dated 08-02-2012. Thereafter Dayanand and one Aslam executed a sale deed in favour of one Ramesh Kumar, Pramod Kumar and Chaitanya vide document No.6604/2012, dated 26-09-2012. As such, Mr.Pramod Kumar and Ramesh Kumar claim themselves to be the present owners of plot NO.269/1 admeasuring 248.25 square yards.

Thereafter, on 16-08-2013, A-1 and A-2 went to office of Sub-Registrar, Rajendranagar and created a GPA in the name of Saber Hussain in respect of plot Nos.269/1 and 269/2 with the help of four persons. Out of four persons brought by A-1, two persons impersonated themselves as E.Hanmaiah and D.Sudershan, the original owners, and executed G.P.A. in favour of one person by name Saber Hussain (accused No.6). One person, Md.Sayeeduddin (accused No.5, signed as witness along with A-2 on the said G.P.A. The petitioner/accused No.1 gave an amount of Rs.75,000/- to each

of the persons who acted as original owners, Rs.20,000/- to the person, who acted as witness and Rs.1,00,000/- to accused No.6, in whose favour the G.P.A. was executed. It is further alleged that A-1 and A-2 in collusion with A-3 to A-5 got created the false document fraudulently with a dishonest intention to cheat the complainant and thereby to get more money.

The material placed before the Court would further show that A-1 herein is involved in Cr.Nos.300 of 2012, 307 of 2014, 218 of 2014, 315 of 2014 and 316 of 2014 for the offences punishable under Sections 447, 420, 468, 471 read with 34 IPC. Since the averments in the remand report

prima facie discloses that the petitioner brought the other accused, created false document by impersonation and he himself paid money to the said persons, it cannot be said that the petitioner is innocent of the offence at this point of time. Since the investigation is still pending and having regard to the allegations made, which *prima facie* constitute the offences alleged, more particularly the act of forgery and using the forged document as genuine knowing the same to be forged, this Court opines that it is not a fit case to invoke inherent power under Section 482 Cr.P.C. to quash the investigation.

Accordingly, the Criminal Petition is dismissed. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

C.PRAVEEN KUMAR,J

01-10-2015

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