

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No.656 of 2011

ORDER:-

The three petitioners herein are shown as A.1 to A.3 in Cr.No.526 of 2010 on the file of Saifabad P.S. The 2nd respondent who is an Advocate by profession filed a private complaint under Section 200 Cr.P.C. before the I-Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, alleging offences punishable under Sections 406, 420 read with 120-B and 34 I.P.C. The said private complaint was referred by the Magistrate under Section 156 (3) Cr.P.C., on the basis of which the crime was registered.

2. The petitioners filed the present petition under Section 482 Cr.P.C., to quash the crime on the ground that a plain reading of the complaint clearly shows that the dispute, if any, in between the petitioners and the 2nd respondent is purely of civil nature and the 2nd respondent taking advantage of his profession as an Advocate has filed a private complaint falsely and got the crime registered with the sole object of harassing the petitioners. The 2nd petitioner is the son of petitioners 1 and 3 who are the wife and husband. The 3rd petitioner/husband is said to have died.

3. What is required to be seen is as to whether the plain reading of the complaint makes out any offence *prima facie* so as to continue with the investigation or whether absolutely there are no grounds for launching the criminal prosecution resulting in quashing of the crime.

4. The contents of the private complaint are perused. What is made out from the material on record is that the petitioners have purchased a plot admeasuring 250 Sq.Yds. in Sy.Nos.15/1 and 15/2 situated at Hydershakot, Ranga Reddy District., under registered sale deed bearing No.5035/1985 dated 22-07-1985 from one T.S.Samuel, who in turn purchased the said plot under registered sale deed dated 25-04-1972 from one Y.Gopalakrishna Murthy. Possession of the said plot was delivered to the petitioners. The 1st petitioner is the house-wife and the 3rd petitioner is said to have gone abroad. The 2nd petitioner is also said to be in U.S.A. Taking advantage of the absence of the petitioners, the allegation is that the 2nd respondent occupied the said plot. When asked by the petitioners, the 2nd respondent claimed

that he purchased the plot from one S.S.M.Ahmed, who is none other than the own brother of the 3rd petitioner and who also incidentally happens to be an attesting witness to the registered sale deed dated 22-07-1985 in favour of the petitioners. The 2nd respondent entered into possession of the plot in April, 2008. When the petitioners called upon the 2nd respondent to vacate the possession, he refused and accordingly the petitioners have filed O.S.No.1448 of 2008 on the file of the I-Additional Senior Civil Judge, Ranga Reddy, for recovery of possession.

5. As a counter-blast to the civil suit, which is being contested by the 2nd respondent herein, he being the sole defendant therein, the 2nd respondent filed the present complaint. After adverting to the source of title. The relevant portion in the private complaint is found at page 6 which may usefully be extracted:-

“..... Thus inspite of having settled the issue, all the accused (petitioners herein) have conspired together to cause wrongful loss to the complainant and to make wrongful gain, by suppressing all the original facts of the matter filed the above said suit (O.S.No.1448 of 2008) against this complainant to cause hardships, inconvenience, harassment and mental agony to the complainant. All the said acts of the accused amounts to committing offences of cheating, breach of trust, fraud by conspiring together with common intention against the complainant and thus they are liable to be prosecuted and punished for the same. Hence, this complaint.”

6. The private complaint filed by the respondent also makes a reference to the settlement arrived at in between the petitioners and the 2nd respondent. It is claimed by the complainant/2nd respondent herein that after discussing the issue and in order to buy peace of mind and also to settle the issue once for all, he paid a sum of Rs.25,000/- in cash to the 1st petitioner/A.1 by obtaining an undertaking dated 24-08-1996 from her and under the said undertaking neither herself nor the other petitioners shall have any claim over the said property under document No.5035 dated 23-07-1985. What is manifest from the plain reading of the complaint is that eventhough the 2nd respondent claims himself to be a bona fide purchaser for valuable consideration and when he was informed that prior to his purchase, the

property was purchased by the petitioners herein, he wanted to purchase peace with them and paid a sum of Rs.25,000/-. He being an Advocate is expected to know that when a person is claiming title on the basis of a registered sale deed which is anterior to that of himself, he ought not to have paid any amount to the anterior purchaser and merely obtain an undertaking from them that they will have no claim, right title over the property in question emanating out of the registered title deed in their favour.

7. The above discussion clearly shows that the dispute in between the 2nd respondent and the petitioners is purely civil in nature and the civil suit has already been filed by the petitioners against the 2nd respondent claiming recovery of possession of the property in question. All the aspects about the title etc., will be gone into that suit. Launching of the private complaint resulting in the registration of the crime clearly amounts to abuse of the process of Court and mis-using the Criminal Justice System so as to brow beat it the petitioners who are claiming themselves to be the owners of the property in pursuance to a registered sale deed. Allowing the investigation into the said crime to continue is therefore not justified. Therefore the crime is liable to be quashed.

8. In the result, the criminal petition is allowed quashing the F.I.R. in Cr.No.526 of 2010 on the file of Saifabad P.S. insofar as the petitioners is concerned.

Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

M.S.K.Jaiswal, J

11th June, 2015

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