

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

CRIMINAL PETITION No.6502 of 2015

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Between :

N.S.Mani S/o.late M.Natesan
and another

... Petitioners/Accused Nos.3 and 4

AND

The State of Andhra Pradesh
Rep. by its Public Prosecutor
and two others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 22.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6502 of 2015

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ORDER :

Heard learned counsel for the petitioners/A.3 and 4 of C.C.No.138 of 2014 on the file of the Judicial First Class Magistrate, Nagari, where the learned Magistrate has taken cognizance for the offences punishable under Sections 417, 420 read with Section 120B IPC after recording the sworn statement of the complainant by following the procedure as contemplated under Section 200 read with 202 and 190 Cr.P.C. and issued N.B.Ws. against A.1 to A.7 by posting the matter by 22.08.2014 and there from coming as can be seen from cognizance order.

2. It is the contention of the learned counsel for the petitioners that the sale deed obtained in favour of I.V.R. Prime Developers (Tambaram) Private Limited, in the name of N.S.Mani, of which A.2 is only Managing Director, is not even as a Managing Director, and A.3, who is the 1st petitioner herein, signed on behalf of the Company and beyond that nothing to do and A.4 is one of the Directors and there is no prima facie accusation.

3. A perusal of the material shows it is undivided and joint family property.

4. As the facts fall short for this Court to admit the

petition under Section 482 Cr.P.C. to quash the proceedings of C.C.No.138 of 2014 supra, so far as these petitioners are concerned, the criminal petition is disposed of giving liberty to file an application under section 245 Cr.P.C. before the learned Magistrate if there are no grounds to frame charges after recording the sworn statement of the complainant and witnesses, if any. Need less to say, if the petitioners along with the other accused files any application under Rule 37 of the Criminal Rules of Practice or under Section 205 Cr.P.C., for permitting any of them through Special Vakalat, the learned Magistrate shall hear and consider by passing orders with necessary conditions. Further remedy, if any, is left open to the petitioners.

5. It is submitted that N.B.Ws. are pending against the petitioners from the cognizance order issued and the counsel placed reliance on the Apex Court judgment in **Inder Mohan Goswami & anr. V. State of Uttaranchal & Ors.**^[1] that the trial Magistrate should not have been resorted to issue N.B.Ws. but for offences of heinous nature and serious crimes from the propensity though generally process issued by summons or warrants cannot be interfered by superior Courts.

6. Having regard to the above, option is given to the petitioners to approach the learned Magistrate to file application under Section 70(2) Cr.P.C. to recall N.B.Ws.

by intimating their willingness to appear in future and execute bonds, from which the learned Magistrate shall recall the warrant on the same day and obtain bonds under Sections 88/89 Cr.P.C. for their future due appearance.

7. Miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

22nd July 2015.

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[\[1\]](#) AIR 2008 SC 251