

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Criminal Petition No.8252 of 2015

Date: 05-10-2015

Between:

Syed Shaker Khan

... Petitioner

AND

The State of Telangana, represented by Public

Prosecutor, Hyderabad and another

... Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Criminal Petition No.8252 of 2015

ORDER:

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The petitioner who is A-2 filed the present petition under Section 482 Cr.P.C. seeking to quash the investigation in Cr.No.218 of 2014 of Mailardevpally Police Station, Cyberabad registered initially against unknown persons for the offences punishable under Sections 447, 427, 420, 468, 471 read with Section 34 IPC and later during the course of investigation, the investigating agency found involvement of about 11 persons in the commission of various crimes in the city.

The case of the prosecution is as under:

Shastripuram Co-operative Housing Society (Society) represented by its

President lodged a report alleging that plot No.422, which is owned by the Society admeasuring 302.5 square yards in Sy.No.134/20 of Meer Sagar, Hamlet of Mailardevpally Village, Rajendranagar Mandal, Ranga Reddy District was never sold to its member at any time. It is alleged that the Society came to know that some persons forged, fabricated and fraudulently created a sale deed alleged to have been executed by society in their favour. It is alleged that the said persons who are claiming to be the owners of the land, constructed a compound wall around the said plot. When the Society asked for production of documents to prove their ownership, they refused to show the same. It is further alleged that a gang of persons are responsible for creating false and fabricated documents showing as if they are executed by the Society in favour of few and usurping the society's property for their illegal gain. 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, which is at its threshold.

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 a poor person 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 further investigation made by the police revealed the involvement of the petitioner and ten 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 A-1 to A-3 with a malafide intention to grab the land approached A-4 to A-6 at "Mannan Associates" Diwan Devdi, Madhina, Hyderabad to create fabricated document No.19852 of 1982 in the name of A-7 Abdul Jaleel showing as if he purchased the land from Shastripuram Society. They also created a General Power of Attorney vide document No.938 of 2010 in favour of A-8 Mohd. Imranuddin Khan, for which A-9 and A-10 were the witnesses. The remand report further discloses that on 07-06-2012 A-1 to A-3 sold the said plot to the A-11 vide document No.3597 of 2012 admeasuring 151 square yards by receiving an amount of Rs.8.5 lakhs from A-11, for which A-1 and A-12 acted as witnesses at the time of registration at Joint Sub-Registrar (1), Moosapet, Ranga Reddy District. The remand report further disclosed that A-11 constructed a room in the said plot No.422 and when LW.1 asked A-11 about her physical possession

in the mentioned plot, A-11 replied that she purchased the same from A-1 to A-3 and A-1 to A-13 colluded with each other and created the fabricated documents and cheated LW.1. The remand report further disclosed that A-2 to A-5 have also created another documents pertaining to Plot No.269/1 and 269/2 admeasuring 248 square yards each. A-2, A-4 and A-5 have also created forged and fabricated link documents as if they are original owners.

The material placed before the Court would show that A-2 herein is involved in Cr.No.300 of 2012, 27 of 2014, 307 of 2014, 315 of 2014 for the offences punishable under Sections 447, 420, 468, 471 read with 34 IPC. The record also discloses about involvement of A-4 and A-5 in number of crimes along with A-2. Since the averments in the remand report *prima facie* discloses involvement of the petitioner in the commission of offence, it cannot be said that he 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 that the same is 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

Date: 05-10-2015

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