

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13664 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused No.6 in Crime No.613 of 2014 of Gajuwaka Police Station, Visakhapatnam, registered for the offence punishable under Sections 420, 468, 471 and 120-B read with 34 IPC.

Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

A perusal of the record reveals that the petitioner is accused No.6 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, the accused No.1 entered into an agreement with the second respondent agreeing to sell the house bearing Dr.No.9-7-256, assessment No.32524 in Sy.No.10/20 admeasuring 450 sq.yards of site and RCC Slabbed Ground situated in Gajuwaka main road for a consideration of Rs.9,50,000/-. The second respondent paid the sale consideration to accused No.1, but he did not come forward to execute the sale deed. Thereafter, the second respondent filed a suit for specific performance against the first accused and the same was decreed. Accused No.1 executed a sale deed in favour of the second respondent in pursuance to the decree and judgment. It is further alleged that accused No.1 by suppressing all the facts, executed an agreement of sale in favour of accused No.3 on 07.01.2003 in respect of the same property. The third accused also filed a suit against A1 and obtained a decree. A1 executed a sale deed in favour of A3 in pursuance of the terms and conditions of the decree. Thus, the petitioner herein purchased the property from accused No.1 under registered sale deed dated 27.04.2011. The gist of the allegations made in the complaint is accused Nos.1 to 3 cheated the second respondent with an ulterior motive. The contention of the learned counsel for the petitioner is that the petitioner purchased the property for a valuable consideration without the knowledge of the agreement of sale dated 04.02.2005. Whether the petitioner cheated the second respondent or not will come to light during the course

of investigation only.

It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioner, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

I have carefully perused the material available on record in order to ascertain whether the allegations made in the complaint are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

Having regard to the facts and circumstances of the case and also the principle enunciated in ***R.P.KAPOOR v. STATE OF PUNJAB, STATE OF HARYANA v. BHAJAN LAL, V.Y.JOSE V STATE OF GURAJAT AND TEEJA DEVI v. STATE OF RAJASTHAN***, I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

The learned counsel for the petitioner submitted that the concerned Station House Officer may be directed not to arrest the petitioner till completion of investigation.

Having regard to the facts and circumstances of the case, the Station House Officer, Gajuwaka Police Station, Visakhapatnam, is hereby directed not to arrest the petitioner/accused No.6 in Crime No.613 of 2014 till completion of investigation.

With the above direction, the Criminal Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this Criminal

Petition shall stand closed.

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T.SUNIL CHOWDARY, J

Date:22.12.2015

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