

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No. 11683 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/Accused No.2 in Crime No. 045 of 2015 of S.R. Nagar Police Station, Hyderabad, registered for the offence punishable under Sections 406, 420, 120-B IPC read with Section 156 (3) Cr.P.C.

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

A perusal of the record reveals that the petitioner is Accused No.2 and respondents 2 & 3 are the *de facto* complainants in Crime No. 045 of 2015. As per the allegations made in the complaint, on 2.6.2010, the petitioner along with accused Nos. 1 and 3 executed an agreement of sale agreeing to sell the house bearing H.No. 7-1-621/108 for an amount of Rs. 2,20,50,000/- to the second respondent. The second respondent paid an amount of Rs. 1,67,00,000/- to the petitioner and other accused on different dates. It is further alleged that the petitioner herein along with other accused postponing the execution of sale deed in favour of the second respondent with an ulterior motive to deceive him.

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 allegations made in the complaint 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 the investigation.

Having regard to the facts and circumstances of the case and also in view of the principle enunciated by the Supreme Court in ***ARNESH KUMAR v. STATE OF BIHAR AND ANOTHER***, the Station House Officer, S.R. Nagar Police Station, Hyderabad, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No. 045 of 2015, so far as the petitioner/Accused No.2 is concerned.

With the above direction, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, pending if any, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 13.11.2015

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