

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13003 of 2015

ORDER:

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_____ This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/A1 and A2 in Crime No.142 of 2015 of Kukatpally Police Station, Cyberabad District, registered for the offences punishable under Sections 420 and 506 IPC.

2. _____ Heard learned counsel for the petitioners and learned Public Prosecutor representing the State.

3. _____ A perusal of the record reveals that the petitioners are A1 and A2 and the second respondent is the *de facto* complainant in Crime No.142 of 2015. As per the allegations made in the complaint, the second respondent had entered into an agreement with the petitioners on 12.04.2013 to sell a flat bearing No.403 of Sumedh Classics, Kukatpally, Hyderabad, for a consideration of Rs.20,75,000/-. In pursuance of the said agreement, the second respondent paid an amount of Rs.2,50,000/- as advance to the petitioners. Thereafter, the second respondent came to know that the petitioners have constructed the flat in deviation of the sanctioned plan issued by the Greater Hyderabad Municipal Corporation. It is further alleged that the petitioners herein have threatened the second respondent with dire consequences. The gist of the allegations made in the complaint is that the petitioners herein have cheated the second respondent.

4. 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/s, then this Court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

5. 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.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in ***R.P.KAPOOR v. STATE OF PUNJAB***^[1], ***STATE OF HARYANA v. BHAJAN LAL***^[2], ***V.Y.JOSE V STATE OF GURAJAT***^[3] ***AND TEEJA DEVI v. STATE OF RAJASTHAN***^[4], I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

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

8. 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***^[5], the Station House Officer, Kukatpally Police Station, Cyberabad District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.142 of 2015, so far as the petitioners/A1 and A2 are concerned.

9. 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
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8th December, 2015
sj

^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] (2009) 3 SCC 78

^[4] 2015 (1) ACR 564 (SC)

^[5] 2014 (8) SCALE 250