

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

CRIMINAL PETITION No.11454 of 2011

Between:

J.Giridhar and another

..... PETITIONERS-A1&A2

AND

The State of Telangana represented by its
Public Prosecutor, High Court of Judicature,
Hyderabad and another.

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 28.07.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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
2. Whether Their Ladyship/Lordship wishes to see the fair copy of the Judgment? Yes/No

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRL.P.No.11454 of 2011

ORDER:

Petitioners-A1 and A2 seek to quash the proceedings initiated against them in C.C.No.1732 of 2009 on the file of the XVII Additional Chief Metropolitan Magistrate, Hyderabad, registered for the offences punishable under Sections 420 and 506 I.P.C.

The 2nd respondent herein filed a private complaint against the petitioners-A1 and A2 for the offences punishable under Sections 420, 506 read with Section 120-B(2) I.P.C. before the IX Additional Chief Metropolitan Magistrate, Hyderabad, which was referred to the police, Musheerabad under Section 156 (3) Cr.P.C. for investigation and report. Thereafter, the Sub Inspector of Police, Musheerabad Police Station, registered the complaint as a case in Crime No.321 of 2008 under Sections 420 and 506 I.P.C. and took up investigation. Eventually, after completion of investigation, the Sub Inspector of Police, Musheerabad Police Station, filed charge sheet against the petitioners-accused for the aforesaid offences and the same was numbered as C.C.No.1732 of 2009.

A perusal of the charge sheet shows that the 1st petitioner-A1 invested an amount of Rs.15 Lakhs in the name of his wife i.e., 2nd petitioner-A2 in a venture called "Koundinya's Jagarlapudi Mansion, Ramnagar, Hyderabad, run by the 2nd respondent-complainant, and that a joint venture agreement dated 11.02.2003 was also entered into between the parties. It is alleged that the petitioners-A1 and A2 in collusion with each other defrauded the 2nd respondent-complainant by purchasing two residential flats bearing Nos.102 and 103 and a shop in ground floor, Koundinya's Jagarlapudi Mansion, in the name of A-1 through registered sale deeds and thereby failed to pay a sum of Rs.23,17,500/-. It is further alleged that the 2nd petitioner filed O.S.No.382 of 2005 on the file of the III Additional Chief Judge, City Civil Courts, Hyderabad, for recovery of Rs.28,49,400/- from the 2nd respondent-firm and its partners and the same is pending disposal.

Learned Counsel for the petitioners submitted that the petitioners have been falsely implicated in the crime with an ulterior motive by the 2nd respondent to evade the amounts legitimately due to the 2nd petitioner herein. He further submitted that the 1st petitioner had paid the substantial portion of the sale consideration through cheques and the balance in cash.

The allegations made in the complaint do not prima facie constitute any offence or make out a case against the petitioners. A perusal of the entire material available on record, would clearly reveal that there are commercial transactions in between the petitioners-accused and the 2nd respondent-complainant and that the present complaint was filed by the 2nd respondent herein as a counter blast to the suit being O.S.No.382 of 2005 filed by the 2nd petitioner-A2 herein. Even if the entire allegations made in the complaint are taken into consideration as true, the same are of civil in nature and do not attract the ingredients of Sections 420 and 506 I.P.C. Further, there is no specific allegation in the complaint in respect of the offence punishable under Section 506 I.P.C. The grievance of the 2nd respondent-complainant, since being in civil nature, can be ventilated before the appropriate Civil Court.

For the aforementioned reasons, I am of the considered view that

continuance of proceedings initiated against the petitioners-A1 and A2 are nothing but an abuse of process of law and are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings initiated against the petitioners-A1 and A2 in C.C.No.1732 of 2009 on the file of the XVII Additional Chief Metropolitan Magistrate, Hyderabad are hereby quashed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

28-07-2015

Gsn