

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.8245 of 2015

ORDER:

The present application is filed by A-1 under Section 482 Cr.P.C. seeking quashing of proceedings in Cr.No.307 of 2014 of Mailardevpally Police Station, Cyberabad registered initially against unknown persons for the offences punishable under Sections 447, 420, 468, 471 read with Section 34 IPC and later during the course of investigation, the investigating agency found involvement of 12 named 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.1814, which is owned by the Society admeasuring 300 square yards in Sy.No.134/20 of Meer Sagar, H/o.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 one document recently which is in circulation for sale of the said plot under registered sale Deed document No.9246 of 1982, dated 03-05-1982 alleged to be executed by the Society in favour of one Smt.Radhika Agarwal. After verification, it was found that the society never sold such plot to Smt.Radhika Agarwal under the alleged document. It is further alleged that some persons forged, fabricated and fraudulently created the sale deed alleged to have been executed by the Society in their favour. It is stated that the said persons who are falsely claiming to be the owners, have constructed a compound wall and are selling them to third persons. When the Society asked for production of documents,

they refused to show the same. It is further submitted that a gang of persons are responsible for creating false and fabricated documents alleged to have been executed by the Society in favour of the 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.

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**^[1], 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-4 with a malafide intention to grab the land of Shastripuram Co-operative House Building Society, Mailardevpally, Rajendranagar Mandal approached A-5 to A-7 at

“Mannan Associates” Diwan Devdi, Madhina, Hyderabad to create fabricated document No.9246 of 1982 and 9247 of 1982 in the name of Radhika Agarwal and Sunitha Agarwal showing as if they have purchased the land from Shastripuram Society plot No.1813 and 1814. They also created an agreement of sale alleged to have been executed by in favour of A-2 Muzzafar by Radhika Agarwal and Sunitha Agarwal. Thereafter, on 31-01-2012 A-1 to A-4 had registered plot No.1813 and 1814 in favour of A-8 Basithunnisa Noorjahan vide document sale deed No.1219 of 2012. The remand report further discloses that A-1 and A-9 were acted as witnesses. A-11 informed LW.6 Mohd. Azad that he is the owner of the property, who is working at LW.5's Bangle store as designer. It is further stated that LW.5 agreed to purchase the above plots for total an amount of Rs.32,00,000/- for an extent of 600 square yards. On 12-09-2013, A-1, A-3, A-8, A-12 and LW.6 came to Joint Registrar Office at Ranga Reddy and registered the plots bearing Nos 1813 and 1814 in favour of LW.5 from A-8. A-12 and A-13 were acted as witnesses. On the same day, LW.5 paid an amount of Rs.10,00,000/- to A-11. Fifteen days thereafter, LW.5 paid an amount of Rs.8,00,000/- to A-11 in the house of LW.6 and later Rs.14,00,000/- to A-10 in the presence of A-11. Thereby, all the accused persons i.e. A-1 to A-12 colluded with each other created the fabricated document Nos. 9246 of 1982 and 9247 of 1982 and intentionally cheated LW.5 as well as the society of the complainant/LW.1.

The material placed before the Court would further show that A-1 herein is involved in Cr.Nos.300 of 2012, 27 of 2014, 218 of 2014, 315 of 2014 and 316 of 2014 for the offences punishable under Sections 447, 420, 468, 471 read with 34 IPC. 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

01-10-2015
Nvl

[\[1\]](#) AIR 1992 SC 604