

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.11639 of 2015

ORDER:

1 This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioner/accused in Crime No.94 of 2015 of Kothur (M) Police Station, Mahabubnagar District registered for the offences under Sections 406 and 420 I.P.C.

2. The contention of the learned counsel for the petitioner is two fold. 1) Even if the allegations made in the complaint are taken to be true and correct, no prima facie case is made out against the petitioner under Sections 406 and 420 of IPC, 2) Section 5 of the Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999 (for short 'the Act') is not applicable to the facts of the case on hand.

3. Learned Public Prosecutor submitted that the petitioner herein collected nearly Rs.30.00 crores from various persons and executed sham and nominal sale deeds. He further submitted that this is not the stage to go into the merits of the main case.

4. A perusal of the record reveals that the petitioner is the sole accused and the first respondent is the *de facto* complainant in Crime No.94 of 2015.

5. As per the allegations made in the complaint, the petitioner collected an amount of Rs.6,30,000/- from the first respondent and executed sham and nominal documents in respect of Plot Nos.103 and 104 situated in Chegur Village shivar, Kothur Mandal, Mahabubnagar District. As per the allegations made in the complaint, the petitioner, knowing fully well that there is no land in existence, has executed sham and nominal documents with an ulterior motive to cheat the innocent public. During the course of investigation, the investigating

officer came to know that the petitioner executed sale deeds in favour of 1800 customers without having sufficient land available and collected nearly Rs.30.00 crores. It is further alleged that the petitioner executed two or more sale deeds in respect of same plot. The gist of the allegations made in the complaint is that the petitioner cheated the innocent public. The investigating officer, after receiving necessary sanction from the authorities concerned, added Section 5 of the Act. The fact remains that the petitioner has collected money from various customers by way of installments.

6. Whether Section 5 of the Act is applicable or not will come to light during the course of investigation. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings. The Court has to take meticulous care while exercising the inherent power under Section 482 Cr.P.C., more particularly, in this type of cases. While deciding the petitions under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. The allegations made in the complaint are *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

7. Having regard to the facts and circumstances of the case and also the principles enunciated by the Supreme Court in **R.P.Kapoor v. State of Punjab** and **State of Haryana v. Bhajanlal**, I am of the considered view that it is not a fit case to quash the proceedings at the initial stage of the investigation.

8. Hence, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 19.11.2015
lvd

T.SUNIL CHOWDARY, J