

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.9340 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioners/A1 and A2 in Crime No.313 of 2015 of Amberpet Police Station, Hyderabad registered for the offences punishable under Sections 420, 406 and 506 IPC.

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

3. The petitioners are A1 and A2 and second respondent is *de facto* complainant in Crime No.313 of 2015. As per the allegations made in the complaint, the first petitioner entered into agreement with the second respondent on 10.5.2012 agreeing to sell house bearing No.2-2-259/A, admeasuring forty-six (46) Sq.yards situated at Kummariwada, Bagh Amberpet, Hyderabad for an amount of Rs.13,08,000/-. In pursuance of the agreement of sale, the second respondent paid an amount of Rs.5,00,000/- on 10.5.2012. It is alleged that the first petitioner has been postponing the execution of sale deed on one pretext or the other. It is further alleged that the second respondent came to know that the first petitioner is not the owner of the house property. The contention of the learned counsel for the petitioners is that the *lis* involved between the parties is purely civil in nature without any element of criminality. Whether the first petitioner is the owner of the house property or not will come to light during the course of investigation.

4. It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent power 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 offences alleged to have been committed by the petitioners, 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, 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.

7. The learned counsel for the petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners/A1 and A2 during the pendency of the investigation. In view of the orders of this court dated 22.9.2015, the Station House Officer, Amberpet Police Station, Hyderabad, is hereby directed not to arrest the petitioners/A1 and A2 in connection with Crime No.313 of 2015 till completion of the investigation.

8. With the above direction, the criminal petition is dismissed. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J

November 24, 2015.

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