THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13514 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 and 2 in Crime No.945 of 2015 of Uppal Police Station, Cyberabad, registered for the offence punishable under Section 420 IPC.

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

A perusal of the record reveals that accused Nos.1 and 2 purchased Flat No.203, Siva Residency, Ramanthapur, Ranga Reddy District on 02.01.2002 under a registered sale deed for a consideration of Rs.2,00,000/- after obtaining loan from State Bank of India. Accused Nos.1 and 2 sold the same flat to accused No.3 under registered sale deed dated 15.09.2009. As per the allegations made in the complaint, the accused No.3 sold the property to the *de facto* complainant on 18.06.2010 assuring that he will pay the instalments to the bank. It is further alleged that accused Nos.1 to 3 have not paid the instalments with an ulterior motive to cheat the second respondent. Admittedly, the petitioners herein are not parties to the sale deed dated 18.06.2010. Whether there is any understanding between the petitioners and the second respondent with regard to the payment of instalment will come to light during the course of investigation only.

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

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.

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.

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

Having regard to the facts and circumstances of the case, the Station House Officer, Uppal Police Station, Cyberabad, is hereby directed not to arrest the petitioners/accused Nos.1 and 2 in Crime No.945 of 2015 till completion of investigation.

With the above direction, the Criminal Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date:18.12.2015
Rns

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[1] AIR 1960 SC 866
[2] AIR 1992 SC 604
[3] (2009) 3 SCC 78
[4] 2015 (1) ACR 564 (SC)