HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8682 of 2015

ORDER :

The petitioner is accused No.6 in Crime No.316 of 2015 of Sadashivapet Police Station, Medak District registered on 06.07.2015 for the offences punishable under Sections 419, 420, 464, 465 and 471 read with 120-B IPC, which is outcome of private complaint of de facto complainant dated 02.06.2015 before Hon'ble Judicial First Class Magistrate, (Special Mobile) at Sanga Reddy, who in turn forwarded to police for investigation under Section 156 (3) Cr.P.C in registering the crime against seven accused including the petitioner/accused No.6 for the said offences. Pending investigation supra, the petitioner/ accused No.6 is seeking to quash the said proceedings.

2. The substance of the accusation of the private complaint is that the alleged offence taken place on 11.01.2015; that the complainant M.Manohar of Kamareddy is the owner and possessor of land admeasuring Ac.3.00 gts in S.No.219/E/Part of Gangaram Village of Kondapur Mandal, Medak District; that complainant being the owner executed registered agreement of sale-cum-GPA vide document No.2439 of 2007 in favour of A.Mahender Reddy and N.Gnaneshwar i.e., LWs.1 and 2 and on 11.01.2015 the complainant came to know through LW.1—A.Mahender Reddy that A1—Mission for the Interior represented by its Director Benjamin Christopher Komanapally—accused No.2, of Narsapuram, West Godavari District in collusion with accused Nos.3 and 4 viz., P.Subhash Reddy and Ashok respectively got created a registered sale deed bearing document No.1786 of 1999 in respect of the property supra, as if executed by complainant in their favour though the complainant never executed the said sale deed bearing No.1786 of 1999; that it is a forged and impersonated document, which is illegal and the alleged witnesses accused Nos.3 and 4 to the said sale are also parties to the collusion and cheating and they got created the forged document used as if genuine in committing fraud by in turn alienation in

favour of Pamidi Paul Benerjee—accused No.4 vide document bearing No.3676 of 2007 to which accused Nos.6 and 7 viz., S.S.Mallik and Anjanna also parties and thereby, they are liable for the said offences. It is further averred in the complaint that accused Nos.5 and 6 knowingly purchased the property under the document bearing No.3676 of 2007 in collusion with other accused that even complainant approached the police for registering the crime at the influence of the accused persons through political leaders the police kept quite with no action and the accused persons are with muscle power and complainant is helpless and thereby constrained to approach the Court, hence to refer the private complaint to Sadashivapet Police Station for investigation and to take cognizance and to summon the accused and to take action according to law. The petitioner did no file the order of reference of the Magistrate to the police.

3. It is impugning the same in the quash petition, the petitioner/accused No.6 contended that S.No.219 is a total extent of Ac.18.29 gts that was owned by Jangam Shankaraiah succeeded through his father Chandraiah, who was the pattadar even from 1952. The said Jangam Shankaraiah has sold Ac.3.00 gts each to Begari Ramulu and K.Narsamma under registered sale deed document Nos.19 and 20 of 1986 and another Ac.3.00 gts to K.Narsamma under registered sale deed bearing document No.33 of 1986 and another Ac.3.00 gts to Muthsyala Manohar under registered sale deed vide document No.34 of 1986 and out of Ac.18.29 gts the remaining Ac.9.29 gts was sold by Jangam Ramalingam, S/o.Jangam Shankaraiah to A1—Mission for the Interior represented by accused No.2—Benjamin Christopher Komanapally under registered sale deed bearing document No.1213 of 1999 and the above three purchasers purchased from Jangam Shankaraiah of each Ac.3.00 gts in the year 1986 supra also sold to A1 firm rep. by accused No.2 with source of title of Jangam Shankaraiah referring and the land in turn sold by A1 firm represented by accused No.2 to accused No.5—Pamidi Paul Benerji, who in turn sold to some other persons and the petitioner/accused No.6—S.S.Mallik, the Principal of Crystal Dwellings

Private Limited also one of the purchasers of Ac.3.00 gts in S.No.219 and these lands are developed and converted as non-agricultural lands and plots were laid by getting the layout approval. The 2nd respondent—de facto complainant after a period of 16 years to the registered sale deed supra, come forward saying Ac.3.00 gts of land in S.No.219/E earlier agreed to sell by him to LWs.1 and 2 and a document was created in the year 1999 as if he sold the same, which is nothing to believe. So far as petitioner/ accused No.6 is concerned, who is the present purchaser from accused No.5 committed no offence and the question of attributing any personal knowledge to the alleged forgery in 1999 by A1 rep. by accused No.2, much less with accused Nos.3 and 4 attestors to the alleged sale deed, petitioner/accused No.6 not even party or attestor to the earlier transactions does not arise to believe for nothing to attribute and there is no offence of cheating or forgery or using the forged document as genuine etc., that are applicable so far as petitioner/ accused No.6 is concerned, the petitioner/ accused No.6 already filed O.S. No.94 of 2015 before the Junior Civil Judge, Sanga Reddy against Patlolla Gopal Reddy and Patlolla Mahender Reddy said to have been purchasers from the vendors of complainant and obtained status-quo order on 21.04.2015 in I.A. No.383 of 2015 in O.S. No.94 of 2015 and the dispute is purely of civil nature and the learned Magistrate without proper verification of the facts referred the same to the police for investigation in registering the crime and for no reason to sustain, hence the proceedings are liable to be quashed.

4. This Court passed interim order dated 14.09.2015 directing the police not to arrest the petitioner/ accused No.6.

5. Heard learned counsel for the petitioner/ accused No.6 vis-à-vis the learned public prosecutor representing 1st respondent-State and the learned counsel for 2nd respondent—de facto complainant and perused the material on record.

6. It is important to mention the factual background that the 1st registered document No.19 of 1986 was executed on 17.01.1986 by

Jangam Shankaraiah in favour of Mustyala Manohar. It shows that Jangam Shankaraiah is the absolute owner and possessor of the land of Ac.3.00 gts of Gangavaram Village in S.No.219 since his ancestors. He sold the same having received full consideration and the schedule describes Ac.3.00 gts is out of the total extent of Ac.18.00 gts and odd with description of the boundaries on four sides. Another sale deed bearing document No.1786 of 1999 dated 27.08.1999 speaks that Mustyala Manohar (vendee of document bearing No.19 of 1986 supra) sold in favour of A1—Mission for the Interior represented by accused No.2 Benjamin Christopher to an extent of Ac.3.00 gts in S.No.219/AA with boundaries of four sides as land of vendee. Another document filed is the registered sale deed bearing No.2931 of 2007 dated 01.06.2007 executed by said M.Manohar in favour of Aujigari Mahender Reddy and Mangali Gnaneshwar referring to the extent of Ac.3.00 gts in S.No.219/E with boundaries referred on four sides of land i.e., North land of Golla Mallaiah, South land of K.Narsamma, East land of B.Balaiah, West land of H.Yellaiah.

7. It is from the above, there was a sale deed bearing document No.3580 of 2007 dated 10.07.2007 executed by A1—Mission for the Interior represented by accused No.2 in favour of Pamidi Paul Benerjee referring to the source of title as registered sale deed bearing document Nos.1213, 1786, 1464 and 1900 of 1999 (which includes Ac.3.00 gts sold to accused No.1 by Manohar referred supra out of total ac.18.00 gts and odd) with schedule description of S.Nos.219/A to an extent of Ac.9.29 gts, 219/AA to an extent of Ac.3.00 gts, 219/E to an extent of Ac.3.00 gts and 219/EE to an extent of Ac.3.00 gts. The source of title to S.No.219/E of accused No.1 in the alienation in favour of accused No.5 supra in 2007 under registered sale deed bearing document No.3580 of 2007 speaks so far as S.No.219/E is concerned registered document No.1900 of 1999. No doubt, as referred supra land in S.No.219/E to an extent of Ac.3.00 gts sold by complainant in favour of LWs.1 and 2 under registered sale deed bearing document No.2931 of 2007 dated 01.06.2007 and the registered sale deed bearing document

No.3580 of 2007 dated 10.07.2007 is subsequent to it. However, there is source of title from registered document No.1900 of 1999 and what the petitioner/ accused No.6 purchased from accused No.5 under registered sale deed bearing No.3637 of 2007 dated 12.07.2007 of total Ac.39.33 gts which is besides Ac.11.27 gts in S.No.229/AA/1, 229/EE/3 and 214 and Ac.18.29 gts in S.No.219/A/, 219/AA, 219/E and 219/EE besides Ac.9.17 gts in S.Nos.220, 220/E, 220/EE, 220/A, 220/U, 221/AA/1 and 221/E. Leave about any complicity of A1 represented by accused No.2 for common offence for the alienation and creating the forged document by impersonating the registered document No.1900 of 1999, if at all so far as the petitioner/ accused No.6 is concerned, there is nothing to attribute any personal knowledge or party to the forgery or cheating or using the forged document as a genuine or forgery for the purpose of cheating.

8. In fact that the Apex Court in ***Mohammed Ibrahim vs State of Bihar***[1] while quashing the proceedings of the private complaint referred to police for investigation and from the police final report taken cognizance by Magistrate for the offences under Sections 323, 341, 420, 467, 471 and 504 IPC, observed that it is the duty of the Criminal Court that proceedings are not misused for settling scores or pressuring parties to settle any civil disputes, as held in ***G.Sagar Suri vs State of UP***[2] and ***Indian Oil Corporation vs NEPC India Limited***[3] and so far as false or forged document concerned to make an accusation for the offence under Section 464 IPC read with Sections 24, 25, 29 and 29-A IPC a person is said to have made a false document if (i) he made or executed a document claiming to be someone else or authorized by someone else; or (ii) he altered or tampered with a document, or (iii) he obtained a document by practising deception, or from a person not in control of his sences and it must be done the document made with intention of causing it to be believed that such document was made/executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed. So far as the offence under Sections 467 and 471 IPC concerned even besides the requirement of the ingredients of

Section 463 of forgery which in turn depends upon creation of a false document as defined under Section 464 IPC for using of forged document as genuine or forgery of a document purporting to be a valuable security respectively. If there is no false document defined under Section 454 IPC, the offences under Sections 467 and 471 IPC are not made out as mere execution of a sale deed claiming that the property being sold was executants property did not amount to commission of the offences under any of the provisions in quashing the proceedings therefrom. It is by further saying, so far as the offence of cheating concerned, from the ingredients of Section 415 read with 25 IPC it must be show sale of a property by a person knowing that property did not belong to him where the seller defrauds purchaser, then purchaser is entitled to prosecute the seller but a third party cannot do so.

9. So far as the offence under Section 504 IPC, it must show an intentional insult to provoke breach of peace and in the absence of which no offence that would be made thereunder in the facts of the case.

10. From the above propositions coming to the present facts, it is not a case of the complainant that the petitioner/ accused No.6 was party to the fraud or forgery in creating the alleged forged or false document bearing No.1900 of 1999, if at all, it is only by A1 represented by accused No.2 as if complainant executed and even mere attestation of the document by accused Nos.3 and 4 would not make them liable unless it is shown, they got knowledge about complainant and somebody was impersonated and they intentionally identified the impersonated person before Sub-register, as mere attestor of a document did not make them liable. Leave about any alienation pursuant to which by A1 represented by accused No.2 in favour of accused No.5, if at all, attested by accused Nos.3 and 4 does not make accused No.5 liable, leave apart no one prejudice from accused No.5 by accused No.6 to be made liable in view of the offences.

11. Having regard to the above, the prosecution of accused No.6 under the crime, no way sustainable and the crime proceedings are

thereby liable to be quashed.

12. Accordingly and in the result, the Criminal Petition is allowed and all the proceedings relating to Crime No. 316 of 2015 of Sadashivapet Police Station, Medak District, against the petitioner/ accused No.6 are quashed and the bail bonds of the petitioner/ accused No.6, if any, are cancelled.

13. Miscellaneous petitions, if any pending in this Criminal Petition shall stand closed.

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Dr. B. SIVA SANKARA RAO, J

Dt.06.01.2016
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:06.01.2016

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[1] 2009 (8) SCC 751

[2] 2000 (2) SCC 636

[3] 2006 (6) SCC 736