

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15174 OF 2016

ORDER:

This Criminal Petition is filed to quash the proceedings in C.C.No.632 of 2016 on the file of I Additional Chief Metropolitan Magistrate, Vijayawada, for the offence punishable under Section 420 I.P.C. with specific allegations against the petitioner and others that A.1-Badugu Venkateswara Rao forged the signature of Godavarti Sitharamaraju and obtained registered document No.10008 of 2005 and later A.1 in collusion with A.4-petitioner herein executed a registered sale deed dated 11-7-2007 vide document No.6288 of 2007 fraudulently in favour of the A.4-petitioner herein.

Police after investigation filed charge sheet making specific assertion against A.4-petitioner herein but the counsel for the petitioner drawn the attention of this court to a joint memo dated 23-11-2012 in O.S.No.149 of 2011 filed before II Additional Senior Civil Judge, Vijayawada by the 2nd respondent herein who is defacto complainant and who is plaintiff therein and A.4 who is defendant No.6 therein, in which it is specifically stated as under:

"It is respectfully submitted that in the above numbered matter, the plaintiff and defendant No.6 compromised matter before the elders with the following terms:

1. The defendant No-6 has no objection to pass a decree in favour of plaintiff by declaring the Non-promissory Agreement of sale cum G.P.A.executed by the 4th defendant (Badugu Vekateswara Rao-A4) in favour of 6th defendant bearing Document No.6288/2007 is null and void not valid document under law and not binding on the plaintiff or the plaint schedule property.

2. The plaintiff herein undertook to withdraw case filed against the Defendant No-6 in Crime No.16/2012 of S.H.O. Satyanarayanapuram.

3. Hence the plaintiff and Defendant No-6 pray that the Hon'ble court may be pleased to record the above terms and pass necessary orders in the interest of justice and equity."

Taking advantage of the said memo and when the matter was compromised before the concerned court, the investigation in the alleged crime would not arise. But since the question of genuineness of the document and other facts have to be enquired into, more particularly, whether the petitioner herein is an innocent purchaser or not, it is a question of fact required to be decided based on evidence adduced during trial itself, I find no ground to quash the proceedings as on today. However, the petitioner is directed to move appropriate application for dispensing his appearance before the court below either under Rule 37 of Criminal Rules of Practice or under Section 205 of Cr.P.C. after serving notice to the respondent and on filing of such application, the I Additional Chief Metropolitan Magistrate, Vijayawada is directed to decide the application on the same day itself.

With the above direction, this Criminal Petition is disposed of.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 26-10-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 26-10-2016.

Dvs