

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15502 OF 2016

ORDER:

This criminal petition, under Section 482 of Criminal procedure Code, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in Cr. No.990 of 2016 of Hayatnagar Police Station, Rachakonda Commissionerate, registered against the petitioner for the offence punishable under Section 420 of Indian Penal Code, 1860.

It is the case of the *de-facto* complainant, who is the second respondent herein, that the petitioner offered to sell the property in S.No.173/2 of Kuntloor Village, Hayathnagar, Rangareddy District, bearing plot No.15 in an extent of 120 square yards informing that the said property belongs to him, sold the property for Rs.1,81,000/-, executed registered sale deed, and later the second respondent came to know that the petitioner has no property in the said survey number. Immediately, when the second respondent contacted the petitioner, he promised to return the amount within a week, but did not repay the same, and now he is contacting the petitioner, but he is not responding to the phone call, therefore lodged the complaint.

It appears from the record that the petitioner having no property in particular survey number of Kuntluru Village, made the second respondent to part with huge amount Rs.1,81,000/- towards sale consideration for 120 square yards and on account of such act the *de facto* complainant put to substantial damage.

Section 415 IPC defined the word 'cheating'.

"415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"."

If the definition of cheating under Section 415 IPC is applied to the present facts of the case, the petitioner though did not own and possess property in S.No.273/2, Kuntluru Village, induced the second respondent, obtained an amount of Rs.1,81,000/- towards sale consideration and executed the sale deed having knowledge that he is not the owner of the property in particular survey number.

Therefore, such allegations, *prima facie*, on its face value, constitute an offence. Hence, I find no ground to quash the proceedings in Cr.No.990 of 2016 of Hayath Nagar Police Station, Rachakonda Commissionarate.

At this stage, Sri Praveen Kumar Dubey, counsel for the petitioner, requested to issue a direction to the investigating agency to follow the procedure contemplated under Section 41-A Cr.P.C. and the guidelines laid down by the Apex Court in **ARNESH KUMAR V. STATE OF BIHAR¹**.

Considering the request of the petitioner, nature of the offence, I deem it appropriate to issue such direction to the investigating agency directing to follow the procedure

¹ (2014) 8 SCC 273

- 3 -

contemplated under Section 41-A Cr.P.C. and the guidelines issued by the Apex Court in **ARNESH KUMAR** referred to supra, while dismissing the criminal petition.

With the above observation, the criminal petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 01.11.2016
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