

**THE HON'BLE SRI JUSTICE U.DURGA PRASAD
RAO**

Criminal Petition No.595 of 2013

ORDER:

The petitioner/A.6 seeks to quash the proceedings in Cr.No.286 of 2012 of Nallakunta Police Station, Hyderabad. whereunder, a Crime No.283 of 2011 was registered against the present petitioner and others for the offences under Sections, 405, 420, 452, 468, 471 and 506 IPC based on the private complaint filed by the second respondent/complainant, which was forwarded by the IV Additional Chief Metropolitan Magistrate, Hyderabad to Nallakunta Police Station.

2) A.2 is the wife, A.3 to A.5 are the sons and A.6 is the son-in-law of A.1. The complainant and A.1 are own brothers. The complaint is a long document containing allegations against A.1 and his family members as to how all of them conspired together and betrayed the complainant though he helped them a lot when they were in dire straits by providing them an apartment for their comfortable stay and helping A.1 financially to do business in supplying construction materials and construction works etc.

3) The prime allegations are that the complainant is the absolute owner of the house bearing No. 2-1-436/1 situated in Nallakunta, Hyderabad, which he obtained by way of Will

dt. 9.4.1987 from his Aunt—B. Gangamma. When A.1 suffered loss in his business, the complainant out of sympathy brought his entire family to his house i.e., Royal Villa, Nallakunta and allowed them to stay in his house and he also helped A.1 to perform the marriage of his daughter—Dr. Padmavathi with A.6. Further, as already stated he also financially helped A.1 to set up business in supplying the construction materials. The complainant wanted to dismantle the said house bearing No. 2-1-436/1 and construct the residential complex in 2009. At that juncture, A.1 to A.6 conspired together and pursuant to the said conspiracy, A.1 approached the complainant and requested him to give construction activity and material supply of the proposed construction of the residential complex to him and believing him, the complainant entrusted the said work to him. On 21.01.2010, the complainant and A.1 entered into a construction contract for supply of construction material. A.1 taking undue advantage, took municipal permission from GHMC in his own name instead of the complainant. The complainant paid Rs.10,00,000/- to commence the construction work. He never interfered with the construction activity due to fond belief in A.1. A.1 to A.6 in order to grab the Loyal Villa Apartment went to the house of the complainant on 24.09.2011 at about 3.15 hours while complainant was sleeping and beat him and threatened him and tried to obtain his signatures on some blank papers. When the complainant refused, all the accused beat him

cruelly without any mercy knowing that complainant underwent open heart surgery. At that time one T. Manoj Kumar—LW.3 who is the relative of the complainant, visited the house of the complainant to enquire about his health condition and on seeing him, the accused escaped. Immediately the complainant, his sons and T. Manoj Kumar—LW.3 went to Police Station, Nallakunta and gave report, but the police failed to take action. Not satisfied, the accused filed some false suits to grab the land of the complainant. They also took away his Tata Car bearing No. AP 10 U 5212 on 10.11.2011 by beating the complainant. The complainant lodged a complaint with Nallakunta Police and the same was registered as Crime No.283 of 2011. Above all, A.1 to A.6 created a forged Will dt. 27.07.1985 as if late B. Gangamma executed the said Will in their favour. Later, A.1 and A.2 executed three fake and fabricated Settlement Deeds in favour of A.3 to A.5. When the matter was under investigation, the instant petition was filed by the petitioner/A.6.

3) Heard arguments of learned counsel for petitioners; learned counsel for respondent No.2 and learned Public Prosecutor.

4) Denying the complaint allegations, learned counsel for petitioners vehemently argued that A.6 is the son-in-law of A.1 and he is a Government Doctor who is residing separately from A.1's family and he has nothing to do with the

disputes between A.1 and complainant and he is unnecessarily implicated in this case only to wreak vengeance against A.1 and his family members. Learned counsel further submitted that earlier the wife of petitioner namely Dr. Padmavathi, filed Consumer Case No.711 of 2012 before District Consumer Forum, Hyderabad, against M/s New My Home Constructions represented by its Managing Partner—B. Praveen Kumar who is the son of the complainant and some others, alleging that the respondents failed to complete the works of her plot purchased from them and they committed the act of deficiency of service. Learned counsel further submitted that as a counter blast to the said petition, the complainant filed the private complaint to somehow bring down the petitioner and his wife. Learned counsel further submitted that even assuming that the complaint allegations are true, they only depict civil disputes between A.1's family and the complainant who are close relations and they do not disclose any criminal offence and therefore, continuation of the proceedings particularly against the petitioner/A.6 who has nothing to do with the dispute, would amount to abuse of process of the Court and hence the petition may be allowed.

5) Per contra, severely opposing the petition, learned counsel for respondent No.2/complainant argued that the complainant has vividly explained in his complaint as to how all the accused conspired together to grab his properties

though he helped them a lot and the complainant also narrated as to how all the accused including the present petitioner suddenly went to his house on 24.09.2011 and beat him and forcibly tried to obtain his signatures on some blank papers. Referring the copy of Complaint dt:24.09.2011 presented by the complainant to the Police of Nallakunta upon which no action was taken, learned counsel submitted that in the said complaint he clearly mentioned that along with other accused, the petitioner/A.6 also went to the house of complainant on the afternoon of 24.09.2011 and beat him and threatened him with dire consequences and forcibly tried to obtain his signatures on some blank papers and he further mentioned that at that time A.6 threatened him that if the complainant failed to put his signatures, he would administer some anesthetic injection and obtain his signatures and would kill him and therefore, the role of A.6 in the conspiracy and other offences is manifest and truth or otherwise of the same will be determined after thorough investigation and hence, the quash petition is not maintainable at this stage. Learned counsel further submitted that the complaint was given long prior to the consumer case and therefore, it is preposterous to argue that the complaint is a counter blast to the said case. He thus prayed to dismiss the petition.

6) Learned Public Prosecutor also argued in the same lines as stated by the complainant and opposed the petition.

7) In the light of above rival arguments, the point for

determination is:

“Whether there are merits in this petition to allow?”

8) **Point:** A perusal of the complaint allegations would clearly show that the complainant made several allegations against all the accused including the petitioner/A.6 as if they conspired together to knock away his properties inspite of his rendering various helps and their trespassing into his house and beating him and forcibly trying to obtain his signatures on some blank papers. So, a close scrutiny of the complaint would reveal that there is a *prima facie* material against the accused for the offences charged under different sections. The truth or otherwise of the same can be known after a thorough investigation. As such, it is not apt to stifle the investigation, which, this Court was informed, at the nascent stage.

9) In the result, this Criminal Petition is dismissed with a direction to the Police, Nallakunta P.S, to complete the investigation at the earliest, positively within a period of three(3) months from the date of receipt of copy of this Order.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 06.06.2016

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