

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.9820 of 2010

ORDER:

This criminal petition is filed under Section 482 of Cr.PC to quash the proceedings against the petitioners/A2 to A4 in Crime No.345 of 2010 on the file of the Station House Officer, Subedari Police Station, Warangal District for the offences punishable under Sections 406, 120B and 420 IPC.

2. The learned counsel for the petitioner and learned counsel for the first respondent—*de facto* complainant, in one voice, submitted that A1, A5 and A6 in this crime filed Crl.P.Nos.10151, 10319 and 10827 of 2010 before this court to quash the proceedings against them. This Court by common order dated 03.1.2012 allowed the criminal petitions and quashed the proceedings against them by making following observations:

It is to be noticed that, in each case, it is to be examined whether offences are made out or not. In the instant case, in view of the very denial of execution of any agreement in favour of the 1st respondent-complainant, as alleged, it cannot be said that there is any fraudulent or dishonest inducement on the 1st respondent-complainant, so as to proceed against the petitioners for the alleged offences.

Though Sri C.Malla Reddy, learned senior counsel appearing for the 1st respondent has relied on the decision in the case of Indian Oil Corporation v NEPC India Ltd., (2006) 6 SCC 736, wherein it is held that when disputes arise from breach of contract and civil remedy is availed of, remedy under criminal law is not barred if the allegations disclose a criminal offence, but in this case, it is to be noticed that though the 1st respondent-complainant and his son have filed civil suits for specific performance of agreement of sales in the year 2006 and also questioned the sale deeds executed in favour of Accused No.6, at no point of time they moved in the matter for the offences as alleged against the petitioners. There is no explanation at all for not filing such a complaint for all these years, even after coming to know that the petitioners have entered into agreement and sold the properties in question by registered sale deeds in favour of Accused No.6. While it is true that remedy under criminal law is not barred when civil remedy is already availed, but whether availment of such remedy under criminal law is an abuse of process of law

is to be decided depending on the facts of each case. Hence, this Court is of the view that it is a fit case to quash the proceedings in exercise of jurisdiction under Section 482 Cr.P.C.

3. The allegations made against the petitioners herein/A2 to A4 and the petitioners/A1, A5 and A6 in CrI.P.Nos.10151, 10319 and 10827 are identical in nature.

4. Having regard to the facts and circumstances of the case and also the common order dated 03.1.2012 of this court in CrI.P.Nos.10151, 10319 and 10827 of 2010, I am of the considered view that it is a fit case to quash the proceedings against the petitioners/A2 to A4 in Crime No.345 of 2010.

5. In the result, the criminal petition is allowed quashing the proceedings against the petitioners/A2 to A4 in Crime No.345/ 2010 on the file of the court of Station House Officer, Subedari Police Station, Warangal District. Miscellaneous petitions, if any pending in this criminal petition shall stand closed.

T.SUNIL CHOWDARY, J.

March 17, 2016.

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