

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.15347 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.498 of 2012 pending on the file of Judicial I Class Magistrate, Mylavaram, Krishna District for the offences punishable under Sections 420 and 406 of I.P.C.

The case of the 1st respondent-defacto complainant is that petitioner sold an extent of 484 sq.yards situated at Tiruvuru Road, besides Hanuman Temple and defacto complainant paid Rs.5,00,000/- to the petitioner and entered into an agreement of sale and later he received a legal notice from Syed Razwin, daughter of Abdul Rasheed and Kamchay, wife of Syed Rasheed stating that they had already entered into agreement with regard to the same land and that on 31-8-2011, defacto complainant paid Rs.5,00,000/- to Rasheed and obtained an agreement from him and that one Shaik Ismail son of Fateh Ahmed sent a legal notice saying that they entered into a mortgage agreement with Abdul Rasheed, Kamchay and her father and Rasheed came to the defacto complainant and said that if the defacto complainant pays Rs.4,50,000/-, they will cancel the agreement. When the defacto complainant had a talk with Ismail, by that time, he claimed Rs.3,00,000/- through court and that finally, the defacto complainant settled both of them and paid Rs.7,50,000/- and remaining Rs.16,20,000/- and Rs.5,00,000/- which he paid earlier and also Rs.7,50,000/- total Rs.12,50,000/- and also paid Rs.2,80,000/- and the petitioner who agreed to register the land and that on 22.11.2011, when the defacto complainant went to

Mylavaram Registrar Office and paid challan of amount of Rs.30,905/-, Shaik Abdul Rasheed came to Registrar office and took Rs.2,80,000/- and issued a receipt for the same and later, he went to bring his wife but he has not returned back and thus he committed the offences punishable under Sections 420 and 406 of I.P.C.

In view of the disputes regarding sale consideration while admitting execution of agreement of sale, first respondent lodged a complaint with the police and after due investigation, police filed charge sheet which would disclose that there are specific allegations about alleged fraud and misappropriation on the part of the petitioner and on the face value of the allegations made in the petition, it would constitute the offences punishable under the above referred Sections.

That apart, charge sheet was filed in the year 2012 and it is pending on the file of Judicial First Class Magistrate, Mylavaram since then, till today, no steps were taken questioning the proceedings in C.C.No.498 of 2012 and after four years, for the first time, they approached this court, filed the present petition. However admission about the agreement of sale between the parties, i.e., petitioner and first respondent-defacto complainant.

It is brought to the notice of this court that suit in O.S.No.459 of 2014 is also pending for the last two years and it is at the stage of trial.

In this view of the matter, there is prima facie material to proceed with the trial in C.C.No.498 of 2012 and merely because it is civil litigation, the court cannot jump to conclusion that criminal

proceedings cannot be maintained in view of the judgment in *INDIAN OIL CORPORATION v. NEPC INDIA LTD. AND OTHERS* (¹), wherein the apex court observed that the criminal litigation cannot be converted into civil litigation, however, when there is a criminal allegation, this court cannot exercise jurisdiction under Section 482 Cr.P.C. to quash the proceedings before it. Therefore, by following the principles laid down in the above judgment, it is difficult for me to appreciate the contention of the petitioner at this stage regarding civil dispute and to quash the criminal proceedings in the C.C.

Hence, I find no grounds to quash the proceedings at this stage by applying principles in *INDIAN OIL CORPORATION v. NEPC INDIA LTD. AND OTHERS* (^{1st cited})

Accordingly, this Criminal Petition is dismissed. .

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

JUSTICE M.SATYANARAYANA MURTHY

Dated 28-10-2016.

Dvs.

¹ (2006) 6 SCC 736

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Dvs