

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.1717 of 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 and 2 in Crime No.190 of 2015 on the file of Station House Officer, Rajam Police Station, Srikakulam District, registered under Sections 420, 427 and 423 IPC.

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Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State.

A perusal of the record reveals that the petitioners are accused Nos.1 and 2 and the second respondent is the *de facto* complainant in Crime No.190 of 2015. As per the allegations made in the complaint, Petitioner No.2 / Accused No.2 executed an agreement of sale on 06.03.2013 in favour of the second respondent after receiving an amount of Rs.15.00 lakhs towards advance. It is further alleged that on 27.08.2015, the husband of the 2nd respondent had obtained encumbrance certificate and came to know that the petitioner No.1 executed a revocation deed dated 09.10.2014 cancelling the settlement deed dated 07.02.2011 executed in favour of the petitioner No.2. It is not in dispute that the property covered under the agreement of sale dated 06.02.2013 and the revocation deed dated 09.10.2014 is one and the same. The gist of the allegations made in the complaint is that the petitioners created a document with an ulterior motive to cheat the second respondent.

The contention of the learned counsel for the petitioners is that the nature of lis involved between the parties is purely civil in nature without any element of criminality. Whether the execution of

revocation deed by A1 would attract the provisions of IPC or not will come to light during the course of investigation. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

It is needless to say that the court has to take into consideration the allegations made in the complaint while exercising inherent jurisdiction under Section 482 Cr.P.C., in order to quash the criminal proceedings at the initial stage of investigation. The court is not justified in embarking upon an enquiry to ascertain the truthfulness, genuineness or otherwise of the allegations made in the complaint. It is a settled principle of law that the inherent power should not be exercised to stifle a legitimate investigation. If the allegations made in the complaint do not constitute the offence much less the offence alleged to have been committed by the petitioners, then this court can quash the proceedings in order to prevent abuse of process of court thereby to secure the ends of justice.

I have carefully perused the material available on record in order to ascertain whether the allegations made in the complaint are patently absurd and inherently improbable thereby to quash the proceedings. The material available on record is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

Having regard to the facts and circumstances of the case and also the principle enunciated in ***R.P.KAPOOR v. STATE OF PUNJAB***^[1], ***STATE OF HARYANA v. BHAJAN LAL***^[2], ***V.Y.JOSE V STATE OF GUJARAT***^[3] ***AND TEEJA DEVI v. STATE OF RAJASTHAN***^[4], I am of the considered view that this is not a fit case to quash the criminal proceedings at the threshold.

The learned counsel for the petitioners submitted that the concerned Station House Officer may be directed not to arrest the petitioners till completion of investigation.

Having regard to the facts and circumstances of the case, the Station House Officer, Rajam Police Station, Srikakulam District, is hereby directed not to arrest the petitioners/accused Nos.1 and 2 in Crime No.190 of 2015 till completion of investigation.

With the above direction, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date:12.02.2016

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[\[1\]](#) AIR 1960 SC 866

[\[2\]](#) AIR 1992 SC 604

[\[3\]](#) (2009) 3 SCC 78

[\[4\]](#) 2015 (1) ACR 564 (SC)