THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.387 of 2017

ORDER:

The petitioner/A.2 filed the present application under Section 438 Cr.P.C. to release her in the event of her arrest in connection with Crime No.685 of 2016 of Chaitanyapuri Police Station, Rachakonda District, registered for the offences punishable under Sections 120-B, 418, 416, 420 and 468 read with 34 IPC, apprehending his arrest in connection with above offence.

2. The case of the prosecution, in brief, is that the complainant purchased Flat No.401, Maruthi Nilayam from A.1 in the year 2011. In the year 2013, the complainant obtained loan by depositing title deeds and paying loan amount by way of installments. Later the complainant applied for Encumbrance Certificate in the Registrar office and came to know that A.1 in the capacity of Registered General Power Attorney, in collusion with A.2 to A.4 suppressing the facts describing the name of the apartment as Raghavendra Residency instead of 'Maruthi Nilayam', executed another sale deed in favour of the petitioner herein. Thus, A.1 to A.4 conspired together and created a mortgage loan of Rs.10.00 lakhs over the property from A.3 by depositing title deeds for illegal gain and to cause loss to the petitioner.

3. The petitioner herein admitted about the transactions and contended that due to fear of A.1, who is the notorious criminal, she obtained a sale deed and had no intention to cause any loss to the complainant and undertook to cancel the sale deed and discharge the loan due to A.3 and prayed to enlarge the petitioner on pre-arrest bail.

4. The undisputed facts are that the complainant purchased the property under a registered sale in the year 2011 from A.1 and A.2. Suppressing the said fact, A.2 to A.4 executed another sale deed by mentioning the name of the apartment wrongly with same boundaries of property, which the complainant purchased. The petitioner/A.2 mortgaged the property with A.3 bank and obtained Rs.10.00 lakhs as loan. Thus, the acts of the petitioner clearly show that she purchased the property from the alleged notorious criminal i.e., A.1, but mere giving undertaking to cancel the sale deed and discharge of loan will not wipe out her criminal liability when there is material which would *prima facie* establish that she conspired with A.1, A.3 and A.4, purchased the property and mortgaged the same with A.3 bank. Therefore, *prima facie* there is a material against the petitioner for the offences punishable under Sections 120-B, 418, 416, 420 and 468 read with 34 IPC and in case, the petitioner is enlarged on bail, there is every possibility to flee from justice and that apart A.1 is absconding till today, who is the main culprit and in the event of enlarging the petitioner, it is difficult to apprehend A.1, who executed a document in favour of the petitioner.

5. Considering the facts and circumstances of the case, at the stage of investigation, I find it is not a fit case to enlarge the petitioner on pre-arrest bail.

6. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M.SATYANARAYANA MURTHY, J

JANUARY 27, 2017
YVL

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRITICAL PETITION No.387 of 2017

Date: 27.01.2017

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