

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.12183, 12190 and 12227 of 2011

COMMON ORDER:

The criminal petitions are filed seeking quash of proceedings in CC.No.275 of 2011 on the file of the Chief Metropolitan Magistrate, Hyderabad against petitioners, who are A1, A2 and A5 and CC.No.277 of 2011 on the file of the Chief Metropolitan Magistrate, Hyderabad against petitioners, who are A4 and A6 and A3 respectively arising out of the complaint given by second respondent herein for the offences under Sections 120(B), 406, 420 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the petitioners and the learned Public Prosecutor for the first respondent. None appears for the second respondent in spite of notice.

3. The background facts of the case are that the defacto complainant entered into agreement of sale with A1 and A2. A3 is stated to be only a party to the preliminary decree, which is passed by the trial Court in the partition suit filed by A1 and A2 and others. The grievance of the complainant is that the accused are delaying the final decree to be passed by the trial Court and hence, her rights are defeated.

4. The counsel for the petitioners submits that the suit was filed by the defacto complainant for specific performance in O.S.No.1368 of 2011 on the file of the III Junior Civil Judge, City Civil Court, Hyderabad and the same was dismissed. The prayer there was to

direct the defendants/accused to obtain the preliminary decree and that another suit was filed by the complainant seeking for specific performance and the same was rejected at the SR stage itself. The counsel for the petitioners contends that the complainant purchased the property, knowing fully well that it is an undivided joint family property, with respect of 23% share in the property.

5. The complaint itself spells out that there was a preliminary decree passed in the partition suit filed by the petitioners/accused. When the complainant entered into agreement knowing fully well that it is an undivided share in the joint family property and that she would have to wait till the shares are allotted among the petitioners, there cannot be any grievance for the complainant against the petitioners, as alleged in the complaint. Hence, this Court opines that continuation of further proceedings against the petitioners would be sheer abuse of process of law.

The criminal petitions are allowed and the further proceedings in CC.No.275 of 2011 on the file of the Chief Metropolitan Magistrate, Hyderabad against petitioners, who are A1, A2 and A5 and CC.No.277 of 2011 on the file of the Chief Metropolitan Magistrate, Hyderabad against petitioners, who are A4 and A6 and A3 respectively are hereby quashed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

December 7, 2017
DSK