

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.14104 OF 2015

ORDER:

The present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') to quash the proceedings in the Calendar Case No.95 of 2015 on the file of XIV-Additional Chief Metropolitan Magistrate, Hyderabad.

2. The petitioners herein are arraigned as accused Nos.1 to 3 in the aforesaid Calendar Case. They alleged to have committed the offences punishable under Sections 406, 409 & 420 of IPC read with Section 34 of IPC.

3. Heard Dr. Challa Srinivas Reddy, the learned counsel for the petitioners and Sri K. Durga Prasad, the learned counsel for the 1st respondent / *de facto* complainant.

4. A perusal of the material papers would show that XIV-Additional Chief Metropolitan Magistrate, Hyderabad, by his order dated 20.1.2015 passed in S.R. No.4102 of 2014 on his file in relation to the protest petition filed by the *de facto* complainant under Section 190 (1) (b) of Cr.P.C. taken cognizance of the offences punishable under Sections 406, 409 & 420 of IPC read with Section 34 of IPC against the petitioners having examined the sworn statement of the complainant, arrived at the satisfaction that there were some transactions between A1 & A2, namely, Dodda Linga Murthy and

Dodda Ravindra, and in turn in between A2 & A3 (Dodda Ravinddra and Dodda Sarat Chandra Rahul) and third parties in respect of the site in dispute and the documents also *prima facie* go to show that the consideration amount under the document dated 24.3.2011 is lesser than the SR value etc., and, therefore, it cannot be said that the case is of civil nature, and, thus, rejecting the final report, issued summons that lead to filing the present petition.

5. It is unnecessary to refer to the submissions made by both sides. In fact, it is a clear case where there are *prima facie* allegations as to the commission of cognizable offences alleged against the petitioners reflecting the dishonest intention right from the beginning on the part of the petitioners. A reproduction of paragraphs 6 & 7 from the aforesaid order passed by the learned XIV-Additional Chief Metropolitan Magistrate, Hyderabad would make it abundantly clear that *prima facie* allegations to connect the petitioners herein with their complicity in the commission of the offences alleged against them are occurring. Paragraphs 6 & 7 would read thus:

“6. It is further alleged in the complaint that about 90% of the said plots were sold by the company being represented by accused No.1 and accused No.1 executed the registered sale deeds in favour of the purchasers on behalf of the company and the remaining 10% of the plots have not been sold. The main grievance of the complainant is that the accused No.1 executed a registered sale deed dated 24.3.2011 in favour of his third son Ravindra i.e. A2 for lesser price and on the next day i.e., on 25.3.2011 A2 in turn sold the said 1300 sq.yards of site in favour of Hari Babu and Sathyanarayana for consideration of Rs.10 lakhs under registered sale deed dated 25.3.2011. It is further case of the complainant that accused No.2 also executed three more sale deeds in respect of 950 sq. yards @ Rs.1500/- per each sq. yard in favour of some third parties and A1 also sold away the common area in an extent of 520 left for greenery to his second son i.e., A3 and A1 was also executed another sale deed along with A3 in favour of Panduranga Rao in respect of another common area site. It is also in the sworn statement of the complainant that in the year 2006 A1

Linga Murthy executed the registered sale deed on behalf of the company in his individual capacity i.e., in the name of Dodda Linga Murthy for an extent of Ac.1.11 guntas for lesser consideration and amount of Rs.5,10,000/- was paid from out of the funds of the company etc.

7. To support the contentions of the complainant, prima facie, the complainant filed the copies of the sale deeds and also copy of the statements of account. According to the complainant the accused No.1 executed the sale deeds in favour of accused No.2 for lesser consideration and he also sold away the common area site without the knowledge and consent of the complainant and thus he misappropriated the funds of the company and cheated the de facto complainant etc. The investigating officer simply examined the de facto complainant and thereafter he submitted Final Report as the case is of civil nature. But the material placed before the Court and the complaint allegations and sworn statement contents, prima facie goes to show that there were some transactions between A1 and A2 and in turn in between A2 and A3 and 3rd parties in respect of the site in dispute and the documents also prima facie goes to show that consideration amount under the documents dated 24.3.2011 is lesser than the SR value etc. In such a case, it cannot be said that the case is of civil nature. In other words after careful perusal and scrutiny of the material on record, this Court is of the opinion that there are no grounds to accept the Final Report submitted by the police. On the other hand, the material placed before the court prima facie goes to show that there are just grounds to proceed against the accused for the offences under Sections 406, 409 and 420 IPC and therefore, there are just grounds to issue summons to accused and accordingly, this point is answered.”

6. When the *de facto* complainant is the Director and the 1st petitioner is the Managing Director of the Company M/s. Westside Estates Private Limited and the petitioners 2 and 3 are the sons of the 1st petitioner and the 1st petitioner executed a Registered Sale Deed dated 24.3.2011 in favour of 2nd petitioner for lesser price on 25.3.2011, the 2nd petitioner, in turn, sold the said 1300 sq. yards of site in favour of Hari Babu and Sathyanarayana for a consideration of Rs.10,00,000/- under a Registered Sale Deed, dated 25.3.2011 and when such instances have been occurring successively as projected in paragraph-6 extracted above, it cannot be said that it is purely a civil dispute converted into criminal action, as sought to be viewed by the learned counsel for the petitioners.

There is no merit and it is not a fit case to quash the proceedings in the Calendar Case No.95 of 2015, as no abuse of process of law can be viewed.

Hence, the Criminal Petition is dismissed.

As a sequel thereto, miscellaneous petitions if any pending in the Criminal Petition shall stand closed.

A.SHANKAR NARAYANA

Date:05.06.2017.
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