

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION No.7147 of 2010

ORDER:

The petitioner is accused in C.C.No.234 of 2009 pending on the file of XIV Metropolitan Magistrate, L.B. Nagar and the 2nd respondent is the defacto complainant. The said C.C. is outcome of crime No.348 of 2007 of Pahadi Sharif Police Station registered for the offences punishable under Sections 420, 447 & 427 IPC. The police after investigation filed the final report in the form of charge sheet that was taken cognizance by the learned Magistrate, which is now impugned herein.

The report of the defacto complainant in setting the law in motion in registration of the crime speaks that the defacto complainant-P.S. Reddy claimed purchased land in S.No.144 unit (plot) Nos.5, 20, 51 & 73 during 1996-97 from V.Sanjeev Reddy and others and entered into oral agreement with said Sanjeev Reddy, who is the accused herein to provide amenities to the plot including current, water facilities and construction of compound wall around the site apart from formation of roads. However said Sanjeev Reddy did not do these and he illegally entered into the property and damaged the same by dividing into small plots and trying to alienate and encroach, hence to take action.

From the above, but for trespass and mischief if any, it is difficult to sustain any accusation of cheating. The statement of him as LW.1 also in same line, LW.2 is no other than Y.Sujatha who says the petitioner/accused Sanjeev Reddy promised for that plot of her to provide current, construction of water tank and formation of roads and agreement was also obtained, however he

did not do so and he is tried to encroach into and changed the same into plots. LW.3-M. Suman Christopher also says in the same line in relation to his plot so also by LW.4-Y.Kodanda Reddy, LW.5-T.Rajitha and LW.6-Md. Jhoni. The police final report therefrom shows there is prima facie accusation. As referred supra from said allegations of entering into any agreement to form roads or to provide water and current supply respectively as the case may be concerned, no any agreements given or collected during investigation which are relevant if at all therefrom to show from the time of entering into such agreement, the accused has dishonest intention by inducing with deception and deceived them ultimately by committing breach of the same and otherwise it only amounts to breach of contract with civil remedy if any. Thus sustaining of the accusation under Section 420 IPC is very bleak, but for if at all from the panchanama and the police investigation though specific date and time of the alleged trespass and mischief concerned, to make out only those offences. The additional document filed is defacto complainant's notice to the counsel for the accused dated 12.08.2017 in respect of said plot of the land saying it was sold as if free from all encumbrances and charges with indemnity. However it came to light that there are tenancy appeal before the Joint Collector, Ranga Reddy District and A.S.No.301 of 2005 in High Court and Urban Land ceiling issue. Here it is not the case from the report of the statement of the witnesses much less to go into those aspects covered by the notice that is placed reliance by the counsel for the accused if at all it is a further notice against the accused for the defacto complainant for nothing to go into the contents of the said notice.

Having regard to the above, the Criminal Petition is allowed in part by quashing the cognizance order to the offence under Section 420 IPC and by dismissing the quash petition so far of taking cognizance for the offences punishable under Sections 447 & 427 IPC concerned. All defences left open.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.10.2017
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