

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.14708 OF 2013

ORDER:

This criminal petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed by the petitioner/Accused to quash the proceedings in C.C. No.165 of 2011 pending on the file of II Additional Junior Civil Judge, at Ongole, Prakasam District, for the offence punishable under Sections 27, 62 to 72 of the Indian Stamp Act, 1889 and Sections 80-A to 84 of Registration Act, 1908.

The case of the petitioner, in brief, is that he filed a suit O.S. No.39 of 2004 before the II Additional District & Sessions Judge-cum-Special Judge For SPE & ACB cases, for specific performance of agreement of sale dated 21.11.1996 directing the defendant to execute registered sale deed for an extent of land 37,606 square yards in S.No.742, 644, 629 and 743, Ward N.3, Block No.12, Chennakesava Swamy Street, Ongole Town, Prakasham District, Andhra Pradesh, obtained decree in the said suit and launched the execution proceedings for executing the decree for specific performance in E.P. No.11 of 2005 and obtained registered sale deed bearing document No.7239 of 2005 through process of the court. The property was valued at Rs.1820/- per square yard and the total consideration was Rs.6,84,45,000/- based on the material. But the Registration Department issued notice calling upon the petitioner to deposit the stamp duty and registration

charges vide proceedings dated 06.10.2005 and the petitioner gave suitable reply to the notice, but lodged a complaint in C.C. No.165 of 2011 by the District Registrar, Registration and Stamps Department, Prakasham District, for the above offences.

The first respondent filed counter denying the allegations made in the criminal petition, contending that in pursuance of the order passed by this Court in W.P.No.38413 of 2012, issued memo No.MV/768/2013 dated 11.11.2013 to the petitioner, requesting to pay Rs.1,28,09,115/- (deficit stamp duty of Rs.60,73,400/- + 1% penalty of rs.64,83,640) on or before 30.11.2013, but the petitioner did not turn up, and surprisingly he mentioned in the complaint that he has no knowledge of filing C.C. No.165 of 2011. It is further contended that the petitioner addressed a letter dated 14.11.2012 to the Commissioner and Inspector General of Registration and Stamps Act, Andhra Pradesh, Hyderabad, to accept the payment of deficit stamp duty only without penalty and further requested to withdraw C.C. No.165 of 2011 and also approached the District Legal Services Authority, Ongole, for compromise the said CC, but it was not settled. It is further contended that suppressing all these facts, approached this court with unclean hands, hence the question of quashing the proceeding would not arise and prayed to dismiss the criminal petition.

The petitioner filed W.P. No.38413 of 2012 and this court was pleased to quash the memo dated 27.11.2009 which is the basis for filing the present criminal proceedings before the court. When the memo itself was quashed, question of continuation of proceedings in C.C. No.165 of 2011 does not arise and it would amount to an abuse of process of the court.

Therefore, taking into consideration, the facts and circumstances of the case, continuation of the proceedings before the criminal court is nothing but an abuse of process of the court since the very memo was quashed by this court exercising power under Section 226 of the Constitution of India, thereby the proceedings shall not be continued.

Hence, the proceedings in C.C. No.165 of 2011 pending on the file of II Additional Judicial Magistrate of First Class, Ongole, are hereby quashed, exercising inherent jurisdiction under Section 482 Cr.P.C.

In the result, the criminal petition is allowed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

20.02.2017
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