

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CRIMINAL PETITION No.2455 OF 2017**

**ORDER:**

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the proceedings in Calendar Case No.228 of 2015 on the file of the IV Metropolitan Magistrate, Cyberabad at Ibrahimpatnam, Ranga Reddy District, so far as the petitioner, who is arraigned as accused No.5, is concerned.

2. Sri T. Janardhan Rao, learned counsel for the petitioner, would submit that the complaint allegations do not disclose the commission of any cognizable offence, much less one under Sections 447 and 427 IPC. According to the learned counsel, the Investigating Officer failed to conduct investigation on correct lines and he lost sight of the fact that the petitioner's wife purchased plot from Chandu Srinivas Rao under a registered sale deed bearing No.14763 of 2014 on 20.10.2014 by making part payment and did not even obtain possession as total sale consideration was not paid, and further fact that she got the sale deed cancelled immediately on knowing the fraud played by M/s. Sreemitra Estates Private Limited and Srinivas Rao under cancellation deed No.8187 of 2015, dated 17.04.2015, and the Investigating Officer was carried away by the factum of sale deed being executed without taking into consideration the cancellation of sale deed and even the petitioner not indulged in any encroachment

into the subject land and he is falsely implicated on the allegation that the petitioner erected boundary stones and arranged fencing on it, and the wife of petitioner did not enter into the possession of the plot purchased by her at all and, therefore, sought to quash the proceedings in the aforesaid Calendar Case in so far as petitioner is concerned.

3. The learned Additional Public Prosecutor for the State of Telangana would resist the request contending that the offence punishable under Section 447 IPC is a cognizable offence and, in fact, the evidences collected during the course of investigation would clearly make out a case of commission of offences punishable under Sections 427 and 447 IPC against the petitioner herein also.

4. The learned Additional Public Prosecutor has submitted the C.D. file containing the statements recorded by the police under Section 161 of the Code and perused the same.

5. In fact, the petitioner has not chosen to file the statements recorded by the police under Section 161 of the Code to enable in arriving at whether there are allegations *prima facie* showing the complicity of the petitioner in the commission of offences alleged against him. Non-filing of such statements which constitutes relevant material is a ground basing on which the present petition ought to be dismissed.

6. The documents filed by the petitioner are copies of first information report, complaint notice under Section 41 (A) (1) of the Code memo and sale deed, dated 20.10.2014, and cancellation deed, dated 17.04.2015.

7. The statements of witnesses would clearly show the name of petitioner as to trespassing into an extent of Ac.0-18 guntas of land, along with others. Therefore, it cannot be said, at this stage, that proceeding with trial against the petitioner would amount to abuse of the process of law. So far as the defence put forth by the petitioner is concerned, the same requires appreciation when a full-fledged trial takes place.

Therefore, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.

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**A. SHANKAR NARAYANA, J**

**March 30, 2017.**

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