

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION Nos.828 AND 923 OF 2017

COMMON ORDER:

Both the petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), seeking quashment of First Information Report in Crime No.9 of 2017 of Shahinayathgunj Police Station, Hyderabad City, by accused No.1 and accused Nos.2 to 6 respectively.

2. The petitioners alleged to have committed the offences punishable under Sections 420, 468, 471, 474 and 120-B read with 34 IPC.

3. Sri Ravi Kumar Vora, learned counsel for the petitioners in both the petitions, would submit that the *de facto* complainant, who is respondent No.2 herein, is a Member of Legislative Assembly (MLA), and taking advantage of his position, filed a false complaint against the petitioners. It is also his submission that the house bearing registration No.15-7-394, 392, 392/A, 393, 394, 394/A, 395, 396, 397, 398, 399 and 400 to 492 known as 'Devdi', situated at Begum Bazar, Hyderabad belonged to Smt. Rahmathunnisa Begum, wife of late Kamal Yar Jung, and she sold the said property in favour of her daughter Smt. Zahoorunnisa Begum through registered sale deed bearing document No.926 of 1328 Fasli, dated 15-Meher, 1328 Fasli (1918 A.D.), and during her life time, she enjoyed the said property till her death as absolute owner. Thereafter, she got married to one

Nawab Khader Khan and blessed with two sons and three daughters viz., late Qamarunnisa Begum, late Nawab Hussain Ali Khan, late Rahamathunnissa Begum, late Dildarunnisa Begum and late Mohammed Ali Khan.

i) It is also submitted that the legal representatives of the aforesaid persons executed General Power of Attorneys on 05.10.2016 in favour of the petitioners - accused Nos.2 to 6 to look after a case in Civil Court, but they have been roped by respondent No.2 in the aforesaid crime, besides accused No.1, who is co-owner of the subject property. The learned counsel's submission is that, *ex facie*, the complaint lodged by respondent No.2 do not make out any allegation as to fabrication of any documents and, therefore, the same is liable to be quashed.

ii) It is his submission that even a civil suit in O.S. No.837 of 2016 is also pending before the II Additional Chief Judge, City Civil Court, Hyderabad, and despite issue of notice to the Station House Officer, Shahinayath Gunj Police Station, dated 13.01.2017, to withdraw the complaint, with an oblique motive, the police issued a notice, dated 18.01.2017, under Section 41A of the Code illegally. Therefore, requests to quash the proceedings.

4. The learned Additional Public Prosecutor for the State of Telangana, would submit that the crime is under investigation and

material collected so far including the evidences would clearly indicate that though, petitioner No.1 is not the owner of the property, but to grab the valuable property, created the General Power of Attorneys, despite the fact that respondent No.2 and his wife are the owners of the said property by virtue of registered gift deeds in their favour way back in 1981, but only with a view to grab the property, the suit was filed without having any right at all and sought to dismiss the quash petitions.

5. On hearing the arguments, the learned Additional Public Prosecutor was sought to submit the Case Diary and, accordingly, submitted the case diary.

6. Perused the case diary and it discloses even, at this stage, that Mohd. Naseeb Khan and Smt. Kanne Khatoon, parents of respondent No.2, have got two daughters and three sons including the *de facto* complainant - respondent No.2, and they gifted properties bearing registration Nos.15-7-391, 392, 392/A and 393 under a registered gift deed bearing document No.6827, dated 28.11.1981 in favour of respondent No.2, whereas Mohd. Adli Khan, who is father-in-law of respondent No.2, gifted portions of premises bearing Nos.15-7-394, 398 and 399, admeasuring 210 yards, to the wife of respondent No.2, which is part of subject property, and even the said Mohd. Adli Khan gifted certain other portions to his three sons under registered gift deeds.

7. Except filing the complaint, copy of plaint in O.S. No.837 of 2016, which is filed for partition and separate possession by one Meherunnisa Begum, Akhtar Begum @ Shahnaz Begum and Mohammed Hussain Khan @ Irshad Ali Khan against 21 defendants showing the shares of each one of them alleged to have been entitled, nothing is forthcoming as to the source of title and the documents of title through which the parties in the said suit acquired the said properties.

8. The case diary also discloses that there was originally civil litigation in the year 1961 in O.S. No.16 of 1961 on the file of the Chief Judge, City Civil Court, Hyderabad, filed by one Nawab Mohd. Doulet Khan against Noor Alam Khatoon, Mandoor Khan, Mohd. Naseeb Khan and Khande Khatoon for partition, and it appears that I.A. No.1710 of 1968 was filed for passing final decree. The schedule in the preliminary decree would show the subject property besides other properties. There was yet another litigation in 1983 vide O.S. No.657 of 1983 on the file of the Additional Judge, City Small Causes Court - cum - VI Additional Judge, City Civil court, Hyderabad, which was filed for administration of Estate of deceased Nawab Mandoor Khan. The name of respondent No.5 is finding place as plaintiff No.5. Thus, it appears that investigation into the allegations made requires a thorough probe.

9. It is, no doubt true, the complaint does not contain the description of documents, which the *de facto* complainant alleges to have been forged by the petitioners, but it is also well-settled that complaint need not contain every detail and if basic facts are mentioned that would suffice for taking up investigation to probe into. It is also, no doubt true, that respondent No.2 is an MLA, but that by itself cannot be a ground to view that the present complaint is bereft of relevant particulars from which no investigation at all can be done, more particularly, when the case diary refers to certain facts showing *prima-facie* title and interest of respondent No.2 and his wife - Smt. Zehra Khatoon in the properties covered by the suit as well as General Power of Attorneys executed in favour of accused Nos.2 to 6 by accused No.1 and other persons, who claim to be the legal heirs of original owners. Therefore, it cannot be said that proceeding with investigation is abuse of process of law, in view of the fact that there is material in the direction of *prima facie* allegations available from the case diary to support the allegations in the complaint.

Therefore, both the Criminal Petitions are dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petitions, stand closed.

A. SHANKAR NARAYANA, J

March 06, 2017.

Mgr