

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5425 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner-accused No.1 in Crime No.120 of 2017 on the file of the Station House Officer, Karkhana Police Station, Hyderabad City, registered for the offences under Sections 420, 427, 447, 468 and 471 of IPC.

2. Learned counsel for the petitioner submitted that the petitioner has obtained registered partition deed on 16.1.2017 in respect of plot No.1 in survey Nos.30, 31 and 32 admeasuring 100.00 Sq.yards situated at 108 Bazar Road, Adjacent to Ishaq Colony, Marredpally, Secunderabad. He further submitted that the allegations made in the complaint do not constitute any offence much less the offences alleged to have been committed by the petitioner. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint are *prima facie* sufficient to investigate into the matter.

3. A perusal of the record reveals that the petitioner is accused No.1 and the second respondent is the *de facto* complainant. A perusal of the record reveals that the petitioner herein filed W.P. No.640 of 2017 on the file of this court and the same was disposed of on 05.1.2017 directing the Sub-Registrar of Assurances, Marredpally, to register the partition deed. In pursuance of the orders of this court in W.P. No.640 of 2017, the partition deed was registered on 16.1.2017. As per the allegations made in the complaint, the second respondent herein purchased plot No.1 in

survey Nos.30, 31 and 32 of Marredpally under a registered sale deed dated 05.2.2008. It is further alleged that on 06.6.2017, the petitioner along with others trespassed into the plot and demolished their compound wall and one room. The gist of the allegations made in the complaint is that the petitioner herein cheated the second respondent and demolished the compound wall and one room.

4. While deciding the petitions under Section 482 Cr.P.C., the court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. Whether the petitioner has committed the alleged offences or not will come in light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab**¹, **State of Haryana v. Bhajan Lal**², **V.Y.Jose v. State of Gurajat**³ and **Teeja Devi v. State of Rajasthan**⁴, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

6. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Arnesh Kumar v. State of Bihar⁵, the Station House Officer, Karkhana Police Station, is hereby directed to follow the procedure as contemplated under Section 41A Cr.P.C., in Crime No.120 of 2017 so far as the petitioner-accused No.1 is concerned.

7. With the above direction, the criminal petition is disposed of. Miscellaneous petitions, if any pending in the criminal petition, shall stand closed.

T.SUNIL CHOWDARY, J

July 10, 2017.

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⁵ 5 (2014) 8 SCC 273