

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No. 3478 OF 2011

ORDER:

1. This petition under Section 482 Cr.P.C. is filed seeking to quash FIR in Crime No.33 of 2011 dated 10.03.2011 registered against the petitioner/Accused No.3 for the offences punishable under Sections 406, 420, 506 read with Section 34 IPC mainly on the grounds that the second respondent-de facto complainant without approaching the police in the first instance directly filed complaint under Section 200 read with Section 156 (3) Cr.P.C. and that there is nothing on record to show that the petitioner is involved in the alleged illegal transactions.

2. On the other hand, it is contended by learned Counsel for the second respondent-de facto complainant that A.1 approached the complainant stating that A.2 is the owner of the subject property which was obtained from his sister--A.3 who is the GPA holder of one Mr. Dinakar and stating so, they received Rs.6.00 lakhs from him and cheated by executing agreement of sale.

3. Brief facts of the case are that the second respondent- de facto complainant intend to purchase a house property. On knowing the same, A.2 met him and stated that he got the house property from his sister-A.3, who was the GPA holder of the original owner-Mr. Dinakar. Believing the words, on

30.06.2010, the husband of the complainant paid Rs.6.00 lakhs as advance and agreed to pay the balance within a month at the office of the Sub Registrar. The petitioner/A.3 and two others, i.e. A.1 and A.2 delayed in getting original document and hence on 19.07.2010, A.2 executed another agreement of sale in favour of the complainant in the presence of A.1 again fixing time of one more month.

4. In para 10 of the complaint dated 10.12.2010, there is specific allegation that one Mr. Prabhakar Naidu stating to be the brother of Accused No.3 threatened the complainant over telephone stating that he is a rowdy element and if the complainant demanded amount, his family would face dire consequences. On such threat, the complainant approached the police for taking appropriate action against A.1 to A.3. When no action was taken by the police, the complainant filed private complaint under Section 200 read with Section 156 (3) Cr.P.C.

5. When the trial Court forwarded the complaint, the police registered a case in Crime No. 33 of 2011 on 10.03.2011 against the petitioner and two others for the offences punishable under Sections 406, 420, 506 read with Section 34 IPC.

6. In the first instance, the second respondent approached the police. When the police have not responded, the second respondent filed private complaint as stated supra. Hence

the contention of the petitioner that as the petitioner straight away approached the trial Court under Section 200 Cr.P.C., there is violation of provision under Section 156(3) Cr.P.C. does not stand in the eye of law.

7. This Court while admitting the present Criminal Petition on 20.04.2011 granted interim stay of all further proceedings in Crime No.33 of 2011. In view of the same, the police have not proceeded further to investigate the crime.

8. Having heard the learned Counsel on either side and gone through the material on record, I do not see any abuse of process of law or valid ground to quash the FIR in Crime No. 33 of 2011. No prima facie case is made out to interdict the process of investigation.

9. The Criminal Petition is dismissed. Interim stay granted by this Court on 20.04.2011 stands vacated in sequel thereto.

10. Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 12th October, 2017.
Msnr_x

