

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.648 of 2017

ORDER:

This petition under Section 438 of the Code of Criminal Procedure, 1973 is filed by the petitioner/A4 to grant pre-arrest bail to the petitioner in the event of his arrest in connection with Crime No. 202 of 2016 of Asif Nagar police station registered for the offences punishable under Sections 420, 468, 471 and 506 IPC.

2. The case of the prosecution, in brief, is as follows:

On 18.09.2016 at about 12:00 hours, the *de facto* complainant-Chunchu Srinivas, and one B.Sanjeeva Rao, who is running 'Sree Construction and Contractor', together entered into Development Agreement-cum-General Power of Attorney vide document No.2703/2005 with one G.Koti Reddy and G.Nagarjuna Reddy in respect of the land in Survey Nos.1/3 and 1/4 of Asif Nagar, Dattatreya Colony, H.No.12-1-331/163 Plot No.163 consisting of 606 square yards and got the same registered. They also entered into a development agreement cum General Power of Attorney with one M.S.Satya Babu vide document No.3792 of 2005 in respect of the land in Survey Nos.1/3 and 1/4 of Asif Nagar, Dattatreya Colony, H.No.12-1-331/163, Plot No.164B to an extent of 202 square yards in Survey No.1/3 and 1/4. It is further stated that they obtained permission for construction of apartments from the Greater Hyderabad Municipal Corporation and started construction and due to financial problems they could not complete the same. About two months back after procuring

finance they intended to complete the construction and accordingly they visited the site. At that time, the watchman informed them that one C.Rajender, R/o.Asif Nagar is trying to sell the property and in that process he is showing the apartments to other prospective purchasers. When they verified the documents with the registration department, they came to know that names of some other persons appeared in the encumbrance certificate. They also found that A1 namely Bolma Sarvaraidu has created the false documents in respect of the land belonging to G.Koti Reddy and executed a registered General Power of Attorney vide document No.934 of 2016 in favour of A2 to A4. It is also alleged that the GPA Holder and their followers are threatening the petitioners on phone and they are also trying to forcibly occupy the plot. Hence, they requested to take necessary action and lodged a complaint. On the strength of the said written complaint the police registered the above crime for the offences punishable under Sections 420, 468, 471 and 506 r/w 34 IPC.

3. The main contention before this court is that he is no way concerned with the alleged offences as he is falsely implicated and that the sale deed dated 24.03.1990 was validated by the District Registrar, Hyderabad South vide endorsement file No.7639/E1/1993 dated 12.01.1993. At the time of purchasing the plot it was an open land and subsequently the said G.Koti Reddy got mutated the property in the municipal records and, therefore, the petitioner did commit no offence much less the offence punishable under the above provisions and that he is apprehending arrest in the above crime. In case, the petitioner is arrested and remanded to judicial custody, the petitioner will be

put to incalculable loss, which cannot be compensated, and, therefore, prayed to grant bail to the petitioner.

4. During hearing the learned counsel for the petitioner produced an unregistered and insufficiently stamped sale deed executed by G.Koti Reddy in favour of B.Sarva Rayudu S/o.Krishna Murthy. On the strength of this document he contended that he executed General Power of Attorney and he never created any document in favour of anybody. Therefore, there is absolutely no material to conclude *prima facie* that the petitioner committed any offence and the question of his interference with investigation would not arise in the event of enlarging the petitioner on bail and prayed to grant bail to the petitioner.

5. The learned Public Prosecutor for the State of Telangana would contend that the petitioner is not the owner of the property; that the vendor of the petitioner is no way concerned with the property and he had no title to the property but created the documents and thereby claiming right in the property on the basis of such invalid documents; that the investigation is not completed and expressed their apprehension of interference with further investigation in the event of enlarging the petitioner on bail.

6. As seen from the material on record, the *de facto* complainant entered into a development agreement-cum-General Power of Attorney with the GPA holder, one G.Koti Reddy, who is the owner of the land to an extent of 606 square yards and the said Koti Reddy executed a document in favour of Bolma Sarva Rayudu, S/o.Krishna Murthy, which is unregistered and insufficiently stamped document, and in turn he executed a document in favour

of the present petitioner styling it as sale deed and in turn the said Sarva Rayudu, appears to have executed a document in favour of the petitioner/A4 and the other accused. On the strength of the said document, they are claiming title and right over the property. The sale deed dated 24.03.1990 allegedly executed by G.Koti Reddy in favour of Sarva Rayudu is unregistered and insufficiently stamped document but curiously the document was impounded and the District Registrar collected an amount of Rs.2,45,000/- as stamp duty and penalty vide proceedings No.7639/E1/93 dated 12.01.1993. But this document is invalid in view of the bar under Section 17(1) of the Indian Registration Act, 1908 that such unregistered document would not create any title to the property. Therefore, on the strength of such document, Sarva Rayudu and two others are incompetent to execute such GPA. Thus they have no *prima facie* right and title to the property and interfering with the possession and occupying the property in pursuance of the GPA dated 15.02.2015 by the petitioner and others would amount to an offence. Therefore, creation of such document and claiming title by virtue of such invalid document, entering into possession of the property certainly attracts the offence punishable under Sections 420, 468, 471 and 506 IPC. Thereby, I find *prima facie* material against the petitioner that he committed an offence punishable under Sections 420, 468, 471 and 506 IPC and that as the investigation is not yet completed, if the petitioner is enlarged on bail, there is every possibility of interfering with further investigation. Consequently, I find it is not a fit case to enlarge the petitioner on bail.

In the result, the Criminal Petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

February 10, 2016

LMV

