

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 9806 OF 2010

ORDER :

The petitioners are A.2 and A.3 of C.C.No.1240 of 2010 on the file of the XVII Addl.Chief Metropolitan Magistrate, Nampally, Hyderabad, which is outcome of a private complaint filed by the 2nd respondent M/s Sahara Estates India Private Limited (for short, 'SEIPL') (formerly known as Sahara Properties Private Limited) represented by its Executive Director Smt. G.Pavani that was referred u/sec.156(3) Cr.P.C. by the learned Magistrate to the police for registration of crime and investigation vide Cr.No.88 of 2009 of SHO Jubilee Hills P.S. for the offences punishable u/secs.191, 193, 406, 409, 468, 471,506 r/w 120-B IPC. The private complaint averments and the statement of the complainant as L.W.1 for L.W.2 is Head Constable and L.Ws. 3 and 4 are the first and second investigating officers of the said investigation, are that the SEIPL-2nd respondent, identified the land of Ac.22-12Guntas in Sy.Nos.31,32 and 10/109 of Mucherla Village, Kandukur Mandal, Ranga Reddy district, to develop the same into house plots and prepared lay out in October, 2007 for that in February, 2007, the A.2-R.Prabhakar approached the defacto-complainant through the A.1-M.V.Vamshi Kishore, and purchased plot No.135 by payment of 3.5lakhs and the DTCP authorities returned the lay out approval directing to approach the Greater Hyderabad Municipal Corporation(GHMC)which information the defacto-complainant intimated to the purchasers including said

Prabhakar(A.2) and also intimated that changes to be made in the layout approval as per norms of GHMC. The company on knowing that the A.1 Vamshi Kishore embezzled about 25lakhs from its cash transactions, when the A.1 was confronted with that, he pleaded his guilt and resigned to the directorship of the company on 06.02.2008 that was accepted by the company and A.1-Vamshi Kishore bore grudge against the complainant and its management. On 27.02.2007 the A.2 came out with an agreement of sale dt.27.02.2007 purported to have been entered between the complainant company and the A.2 signed by A.1 on behalf of the Complainant Company with a view to trouble and intimidate the company, had not handed over the same to the complainant company in spite of his resignation from the company. A.1 forged and fabricated the above document to sell the plot No.135 for Rs.1,01,000/- to A.2, and for the balance the company would execute another agreement of sale for 493sq.yards and even over phone the A.1 to A.3 abused the defacto-complainant by threatened her that they conspired in collusion and fabricated a document and used before the District Consumer Forum by giving false evidence.

In fact, the said sum and substance of the private complaint referred to police and registered as crime are the self-same statements during investigation. The chargesheet covered by earlier background and said agreement in question as per the accused persons really entered on behalf of the complainant's company for the deficiency of

services case before the District Consumer Forum as C.C.No.1024 of 2008 filed and the A.1 obtained decree for Rs.3,50,000/- refund by the complainant's company and even complainant's company preferred appeal vide F.A.No.450 of 2009 before the A.P.State Consumer Disputes Redressal Commission and same was also dismissed on 13.08.2009 and the company approached the National Consumer Disputes Redressal Commission, New Delhi, in Revision Petition No.4154 of 2009 where also it went unsuccessful and throughout that process, there is no averment of the said agreement was forged and fabricated or any evidence let in to disprove the same. Once such is the case, the agreement was claimed in February 2007, and the Consumer Forum Case is of 2008. The private complaint filed is in February, 2009 during pendency of the Consumer Case No.1024 of 2008. In fact, based on the agreement, the consumer Forum awarded compensation against the Company in favour of the A.1-the complainant therein by judgment dated 07.04.2009 and even the Sahara company went unsuccessful not only before State Commission but also in the National Commission as referred supra, where upheld the agreement awarding compensation for the deficiency of service covered by the agreement in question. Once such is the case, the very registration of the crime and the final report and its taking cognizance per se are unsustainable apart from no finding of the same is a forged one to file any complaint before Court for perjury or for forgery and it is not even a private complaint procedure adopted and taken

cognizance but through the FIR and chargesheet that is also a bar under Section 195 CrPC,

Having regard to the above, the Criminal Petition is allowed by quashing the proceedings in C.C.No.1240 of 2010 on the file of the XVII Addl.Chief Metropolitan Magistrate, Nampally, Hyderabad. The petitioner is acquitted and his bail bonds shall stand cancelled.

11. Consequently, the pending miscellaneous petitions, shall stand closed.

Date:30.08.2017
vvr

Dr. B.SIVA SANKARA RAO J,

