

CRIMINAL PETITION No. 3232 of 2017

ORDER:

This Criminal Petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioner/accused No.2 on pre-arrest bail since she is apprehending arrest in connection with Crime No.215 of 2017 of Station House Officer, Medipally Police Station, Rachakonda, registered for the offences punishable under Sections 447, 420 and 406 of IPC.

The case of the prosecution is that the de facto complainant purchased plot under registered sale deed bearing No.2247/2014 in the year 2014 in the name of his son and daughter-in-law and they are in peaceful possession and enjoyment of the same till date. While so, on 18.03.2017 third parties came into the plot adjacent to his plot and the accused who are wife and husband executed the sale deed again vide registered sale deed bearing No. 4550/2015 and as such the accused trespassed into the property and thereby cheated them dishonestly inducing them to part with the amount as sale consideration.

The contention of the petitioner is that it is a purely civil dispute and there is dispute regarding the survey also and at this stage there is no prima facie material to conclude that the petitioner committed any offence and prayed to enlarge her on pre-arrest bail.

Whereas, the learned Public Prosecutor for State of Telangana would contend that the accused are wife and husband and having executed sale deed in favour of the de facto complainant in the year 2014, again sold the same property to third parties who trespassed into the land. The petitioner also failed to appear before the police in pursuance of the notice under Section 41-A of Cr.P.C. and failed to co-

operate with the investigating agency to complete the investigation. In such a case, the petitioner is not entitled to claim pre-arrest bail.

The petitioner undisputedly executed a sale deed in favour of the de facto complainant and delivered the possession of the property. Curiously, the same petitioner along with her husband executed another sale deed in favour of the third parties for the same property after two years from the date of execution of the sale deed in favour of the de facto complainant and thereby responsible for trespassing into the plot by third parties. The petitioner having sold the property is not supposed to execute registered sale deed in favour of the third parties for the same property on receiving huge amount of consideration. The execution of sale deed by the petitioner in favour of third parties would amount to cheating as the petitioner and her husband are ceased to be owners of the plot having no saleable interest or right in the property; here, it is sufficient to conclude prima facie that the petitioner fraudulently executed sale deed in favour of the third parties and thereby she is not entitled for pre-arrest bail in view of prima facie material against her for the offences mentioned supra.

It is also clear from the record that this petitioner received notice under Section 41-A of Cr.P.C. who did not appear before the police as directed in the notice. In such a case, the petitioner failed to co-operate with the police to complete the investigation. he is disentitled to pre-arrest bail. Taking into consideration the conduct of the petitioner, I find no ground to exercise discretion to grant pre-arrest bail to the petitioner and no exceptional circumstances are found to grant pre-arrest bail and consequently, the petition is liable to be dismissed.

In the result, this Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

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M. SATYANARAYANA MURTHY, J

Date:27.04.2017  
ccm



THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



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