HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2794 OF 2017

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the First Information Report in Crime No.26 of 2017 of Shahinayathgunj Police Station, Hyderabad.

2. The petitioner is arraigned as Accused No.27 in the aforesaid Crime. He along with Accused Nos.1 to 26 alleged to have committed the offences punishable under Sections 420, 464, 471 and 120-B IPC.

3. Touching the facts, one Mohd. Hyder Khan is the *de facto* complainant. He claims in his complaint that his father was the owner of house properties, which details have been mentioned in the table as four items; in the second table, he has mentioned the names of the tenants and other details; in the third table, the *de facto* complainant has shown the details of alleged forged and fabricated General Power of Attorney showing as many as five items. He mentions that one Meherunnisa Begum, Akhter Begum and the petitioner herein are the associates and conspired together with the other accused persons shown in the FIR to grab their properties, though they are not the owners and not concerned with the properties shown by him and they issued notices to the tenants of the *de facto* complainant falsely

claiming that they are collecting rents from the tenants of the *de facto* complainant and pressuring the tenants to pay the rents to them.

4. Heard Sri S.M. Rafee, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana.

5. The learned counsel for the petitioner would submit that Meherunnisa Begum, Akhter Begum and the petitioner herein have filed suit in O.S. No.837 of 2016 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad, for partition and allotment of their respective shares mentioned in the suit schedule properties, and when the notice, dated 21.12.2016 was got issued, it stood unanswered and, therefore, it is his submission that a civil case is converted into criminal action and sought to allow the petition as it is nothing but abuse of process of law to continue the investigation as the alleged forgery and fabrication of General Power of Attorney is totally incorrect and it is only invented to harass the petitioner by filing the aforesaid complaint.

6. He would also submit that the *de facto* complainant is no other than the brother-in-law of *de facto* complainant in Crime No.9 of 2017 of the very same police station, and when Criminal Petition Nos.828 and 923 of 2017 are filed by the accused in the said crime, this Court dismissed the same. It is also his submission that the *de facto* complainant therein not only filed the complaint concerning the

same properties, but also got filed the present complaint through his brother-in-law to harass the petitioner. He has also filed additional material papers containing copy of order passed in Criminal Petition Nos.828 and 923 of 2017, and a copy of Commercial Tax Officer's jurisdiction in Hyderabad.

7. The learned Additional Public Prosecutor while resisting the request would submit that serious allegations of forgery and fabrication of documents have been made and they require a thorough probe to nail the offenders and, therefore, it is not a case to view abuse of process of law and sought to dismiss the petition.

8. A perusal of the common order passed in Criminal Petition Nos.828 and 923 of 2017 would reflect that the subject properties therein are the subject properties herein also. The petitioner has not chosen to file the said order containing the cause title. Even the suit in O.S. No.837 of 2016 was referred to in the common order, and this Court in paragraph No.9 observed thus:

> "9. It is, no doubt true, the complaint does not contain the description of documents, which the *de facto* complainant alleges to have been forged by the petitioners, but it is also well-settled that complaint need not contain every detail and if basic facts are mentioned that would suffice for taking up investigation to probe into. It is also, no doubt true, that respondent No.2 is an MLA, but that by itself cannot be a ground to view that the present complaint is bereft of relevant particulars from which no investigation at all can be done, more particularly, when the case diary

> refers to certain facts showing *prima-facie* title and interest of respondent No.2 and his wife - Smt.Zehra Khatoon in the properties covered by the suit as well as General Power of Attorneys executed in favour of accused Nos.2 to 6 by accused No.1 and other persons, who claim to be the legal heirs of original owners. Therefore, it cannot be said that proceeding with investigation is abuse of process of law, in view of the fact that there is material in the direction of *prima facie* allegations available from the case diary to support the allegations in the complaint."

9. When subject matter is identical in the present crime and the crime relating to Criminal Petition Nos.828 and 923 of 2017 and when serious allegations of forgery and fabrication are levelled in creating General Power of Attorney as many as five in number in this case, it is not a fit case where inherent power can be exercised favouring the petitioner herein. It requires a thorough investigation and, therefore, it cannot be said that continuation of investigation would amount to the abuse of process of law. There are not merits in the present petition.

Therefore, the present Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand disposed of.

A. SHANKAR NARAYANA, J

June 5, 2017.
Mgr