

THE HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.13285 of 2010

ORDER:

The petitioner is the sole accused of Cr.No.160 of 2010 of Abids Police Station registered on the private complaint of the petitioner-Dr.Mrs.K.Indira, which complaint was referred to police for investigation by the learned II Additional Chief Metropolitan Magistrate, Nampally by reference order dated 17.12.2009, for the offences punishable under Sections 182, 420, 468 and 477 IPC.

The substance of the accusation in the private complaint registered as F.I.R. supra is that the complainant and her husband jointly purchased Ac.0.20 guntas of land in Sy.No.11 of Guttala Begumpet, Serilingampally Mandal of Ranga Reddy District from the accused herein vide registered sale deed dated 12.12.1995 for Rs.4.50,000/- and were put in possession, however the accused sold the property declaring that the land is exempted under G.O.Ms.No.733 dated 31.10.1988 and the sale is not hit by the provisions of the Urban Land Ceiling Act, 1976 (for brevity, 'the Act') and when there was interference by the accused in possession of the complainant over the property, the complainant filed O.S.No.2650 of 2007 on the file of the VIII Senior Civil Judge, Ranga Reddy District at L.B.Nagar and the accused herein filed written statement contending that Ac.0.20 guntas of land, besides the land in Sy.No.11 of Guttala Begumpet, was declared as surplus and an application was submitted by her for regularisation under the G.O.Ms.No.455 dated 25.07.2002. The complainant submitted

applications, registered as F/747/10771/2008 dated 27.08.2008 and F/747/8853/2008 dated 27.08.2008 for regularisation of the said Ac.0.20 guntas of land under the said G.O.Ms.No.747 dated 18.06.2008 and there was delay in presenting the regularisation applications and when the complainant enquired with Urban Land Ceiling office they came to know that objection No.22-4-99 was submitted by the accused, opposing the application for regularisation of the said Ac.0.20 guntas, stating that she is the owner of the land totalling Ac.5.00 cents in Sy.No.11 of Guttala Begumpet, by contending that the sale deed dated 12.12.1995 is fabricated one and there is no lay out for the said land and sale transaction is void and the complainants were never in possession and the application for regularisation under the guise of the sale deed, which is null and void, cannot be made.

It is further averred in the complaint that the accused, with fraudulent and dishonest intention, submitted the objection dated 22.04.2009, by falsely stating that the sale deed of the complainants is a fabricated one and void and they were never in possession. Though admitted in her written statement in O.S.No.2650 of 2007 that she sold the property to the complainant and being the vendor she is estopped from stating contra of the sale deed as void and it is only to delay the process of regularisation of the said land in favour of the complainant and to compel to settle the dispute covered by O.S.No.2650 of 2009 and the acts of the accused constitute the offences punishable supra. It is further

averred that the complainants issued legal notice dated 16.09.2009 calling upon the accused to withdraw her objection dated 22.04.2009, wrongly mentioned as 22.04.2005 in the notice, and the reply of the accused was dated 03.10.2009 making all false and baseless allegations and refused to withdraw the objection. That having sold the land, the accused does not have any more interest in the land, still she filed objections, making false statement to cause wrongful loss to the complainants to harass them as if she is the owner of the entire Ac.5.00 gunts of land in Sy.No.11 of Guttala Begumpet village, Serilingampally, Ranga Reddy District and obtained regularisation and thereby liable for the offences supra.

The contentions in the quash petition impugning the F.I.R. are that, admittedly, the civil suit for injunction filed in the year, 2007 pending before the learned Senior Civil Judge, L.B.Nagar for injunction was under contest. The accusations in the complaint against her are false and there is no case made out for any of the penal Sections for the alleged consequences to refer the private complaint muchless to register the same by police and the complaint is nothing but abuse of process and is liable to be quashed and the complaint filed more than 15 years after the sale deed executed in the year 1995, in 2010 is unsustainable and sought for quashing of the said crime proceedings.

It is the averment of the petitioner-accused that the complaint is filed to coerce the petitioner-accused under the guise of the

complaint for 40 ft width access though the sale deed mentions only 7 ft access. It is also the averment that the allegations in the complaint are even contra to the averments of the complainant in O.S.No.2650 of 2007. It is contended that they are aware of the fact that the land was declared as surplus in the year 2004 itself and having slept over in seeking to regularize till 2008 applied only then by paying excess amount and issued notice to the petitioner for reimbursement of the alleged amount for which she issued reply and the allegations in the present petition are false. It is her contention that, since the complainants were never in possession of the land and as the sale deed is to be declared as null and void in view of Section 5 (a) of the Act, the case initiated by the respondents is abuse of process of law and is liable to be quashed.

Heard the learned counsel for the petitioner-accused, learned counsel for the first complainant and the learned Public Prosecutor representing the State. Perused the grounds urged in the quash petition and the other averments covered by the private complaint registered as F.I.R. and the contents therein.

Undisputedly the sale deed was of December, 1995. It is not the case of the complainants that the recitals in the sale deed are false. There is no counter to the quash petition. The surplus land was declared in the year 2004. There is nothing to say that there was any suppression of fact in obtaining or executing the sale deed dated 12.12.1995 by the accused to the complainants or the other vendees as the case may be. Even if that is the case, it may not be

pretended by the complainants or the vendees that they have no knowledge of the acts. It is not the averment, at the cost of repetition in the sale deed, that there was any warranty saying that the land was covered by the Act or the provisions of the Act have no application to the land in question. So far as that extent supra of execution of sale deed and subsequently in 2004 the land found under the Act as excess concerned to that extent, there are no accusations made out against the petitioner. Coming to the subsequent events, the applications of the complainants for regularisation were dated 28.08.2008 bearing Nos.10771 and 8853 respectively.

Even in the application for regularisation supra, in the notice issued to the accused in question and the contention raised by the accused therein opposing for regularisation pursuant to the provisions of the Act, there is no offence of cheating that could be made out. Thus, none of the offences punishable under Sections 420 or 468 IPC attracts to the facts herein. Even coming to the offence under Section 477 IPC it speaks of fraudulent cancellation, destruction etc. It is not even the case of the accused that for execution or cancellation of the sale deed any case was registered before the Sub-Registrar. The fact that, being the executant of the sale deed, she cannot say that she did not alienate by virtue of the estoppel under the recitals is different from cancellation or destruction of any valuable document for there is nothing in this case on hand. Therefore the offence under

Section 477 IPC also nowhere applies herein. Even coming to the offence under Section 182 Cr.P.C., it is for false information given with an intention to cause the public servant to use his lawful power to injure another person to be made out. Apart from, the objections filed by the accused to the regularisation application of the complainants no where attract the said offence, there is also bar for registering the crime on reference by the learned Magistrate under Section 156 (3) Cr.P.C. to the police for investigation by virtue of the wording of Section 195 (1) (a) of the Act, that too it speaks that the complaint must be initiated by the public servant concerned or some other public servant to take cognizance. Thus none of the provisions are applicable to even refer the said private complaint by the learned Magistrate to the police under Section 156(3) Cr.P.C. in so casually for the sake of asking without application of mind, equally for the police to register the crime or continue said crime proceedings since continuation of the same is nothing but abuse of process, that too when the dispute is civil in nature covered by O.S.No.2650 of 2007 pending since more than three years prior to the filing of the private complaint between the parties under contest by the accused therein.

Accordingly, and in the result, the Criminal Petition is allowed and the crime proceedings are quashed and the bail bonds, if any of the petitioner-accused, shall stand cancelled.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

04th October, 2017
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