

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.126 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused Nos.2 and 3, to quash the order, dated 28.09.2016, passed in CrI.R.P.No.85 of 2016 by the III Additional Metropolitan Sessions Judge at Hyderabad.

2. Heard the learned counsel for the petitioners/accused Nos.2 and 3, learned Public Prosecutor (Telangana) appearing for the 1st respondent-State and perused the record.

3. The learned counsel for the petitioners/accused Nos.2 and 3 would submit that the petitioners, who are accused Nos. 2 and 3, have entered into an agreement of sale with accused No.1 to purchase a shop. A civil case is also filed by the de-facto complainant against the petitioners herein as well as accused No.1. The de-facto complainant, entered into agreement of sale with the accused No.1. There are no *mala fides* on the part of the petitioners/accused Nos.2 and 3. There is no material to frame charges. The trial Court erroneously framed the charges and erroneously dismissed CrI.M.P.No.1450 of 2015 by order dated 04.01.2016. Aggrieved by the same, the petitioners/accused Nos.2 and 3 filed a Criminal Revision Petition before the Court of Sessions in CrI.R.P.No.85 of 2016 and the same was also erroneously dismissed on 28.09.2016 and ultimately prayed to set aside the orders of both the Courts

below and direct discharge of the petitioners/accused Nos.2 and 3.

4. On the other hand, learned Public Prosecutor opposes the same stating that there are allegations against the petitioners/accused Nos.2 and 3 constituting offence punishable under Section 420 read with Section 120-B of I.P.C. and that there is no justification in granting the relief sought for by the petitioners/accused Nos.2 and 3 in this Criminal Petition.

5. The point for determination is whether the petitioners/accused Nos.2 and 3 are entitled for the relief sought?

6. As per the material placed before this Court, the Criminal Petition filed by accused No.1 was dismissed by this Court, vide order, dated 07.07.2014, passed in Crl.P.No.4273 of 2012. Hence, the Court below, having gone through the record, found that there are specific allegations against the petitioners/accused Nos.2 and 3 and the same are required to be decided by the trial Court during the course of trial. It is also brought to the notice of this Court that the original sale deed of the shop is in the possession of the respondent No.2 herein/de-facto complainant. As rightly held by the Court of Sessions, the truth or otherwise of the allegations levelled against the petitioners/accused Nos.2 and 3 can only be decided during the Course of trial. The findings of both the Courts below are based on record. There is nothing to take a different view. The Criminal Petition is devoid of merit and is liable to be dismissed.

7. In the result, the Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

24th October, 2017
Bvv

