

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5189 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.5, 7 to 10 in Crime No.435 of 2016 on the file of the Station House Officer, Kukatpally Police Station, Cyberabad, registered for the offence punishable under Sections 420 and 406 IPC.

2. Learned counsel for the petitioners submitted that the petitioners are bonafide purchasers, therefore, it is a fit case to quash the proceedings. He further submitted that allegations made in the complaint do not constitute any offence much less the offence alleged to have been committed by the petitioners. ***Per contra***, learned Assistant Public Prosecutor for the State of Telangana submitted that the allegations made in the complaint *prima facie* constitute the offence alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners herein are accused Nos.5, 7 to 10 and the second respondent is the *de facto* complainant. As per the allegations made in the complaint, accused 1 and 2 created sale deeds dated 18.09.2014 and 24.05.2016. It is further alleged that the petitioners herein knowing fully well that accused No.2 has no right whatsoever purchased the property from him. The gist of the allegations made in the complaint is that the

petitioners herein along with others cheated the Telangana N.G.Os. Co-operative House Building Society Ltd., thereby caused financial loss to it.

4. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability, reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. Whether the petitioners have committed the alleged offence or not will come to light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.Kapoor v. State of Punjab**¹, **State of Haryana v. Bhajan Lal**², **V.Y.Jose v. State of Gujarat**³ and **Teeja Devi v. State of Rajasthan**⁴, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

6. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

Court in **Arnesh Kumar v State of Bihar**⁵, the Station House Officer, Kukatpally Police Station, Cyberabad, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.435 of 2016 so far as the petitioners/accused Nos.5, 7 to 10 are concerned.

7. With the above direction, the Criminal Petition is disposed of. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 05.07.2017
Rns

T.SUNIL CHOWDARY, J



⁵ (2014) 8 SCC 273