

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1527 OF 2017

AND

CRIMINAL PETITION No.1831 OF 2017

COMMON ORDER:

Criminal Petition No.1527 of 2017 is filed by the petitioner/accused No.1, whereas Criminal Petition No.1831 of 2017 is filed by the petitioner/accused No.4.

2. Both criminal petitions are filed under Section 482 of the Code of Criminal Procedure (for short, 'the Code') requesting to quash the proceedings against them in the First Information Report in Crime No.9 of 2017 on the file of C.K. Dinne P.S., YSR Kadapa District, for the offences punishable under Sections 120-B, 420, 506, 467 & 471 of the Indian Penal Code.

3. Heard Sri Kumbham Srinivas Reddy, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. Sri Kumbham Srinivas Reddy, learned counsel for the petitioners, would submit that by virtue of the Gift Settlement Agreement, one Davood Khan, who is the sister's son of Hussain Bi, occupied the said property. It was agreed to be sold to the *de facto* complainant. Therefore, the *de facto* complainant was not right in levelling the allegations constituting the aforesaid offence against the petitioners herein and other accused.

5. Learned counsel for the petitioners has also referred to the letter addressed by the General Power of Attorney-holder of Sri M. Sujit Reddy to the *de facto* complainant dated 23.1.2017, wherein the General Power of Attorney-holder required the *de facto* complainant to specify the convenient date for registration keeping in view the conditions of agreement at least two days in advance through phone or by e-mail ID on the ground that he was staying at Hyderabad, along with two annexures thereto, and, therefore, his submission that the Gift Settlement Agreement is fabricated is without any substance and sought to quash the proceedings.

6. Learned Additional Public Prosecutor for the State of Andhra Pradesh would strongly resist the request of the petitioners. It is his submission that the alleged Gift Settlement Agreement is an outcome of fraud and it is a fabricated document got up by the petitioners herein and two other accused, who are A2 & A3, in the direction of deceiving the *de facto* complainant, having already obtained Rs.24,00,000/- (Rupees Twenty four lakhs only) which constitutes one-fourth of the total consideration amount and when she questioned the petitioners and other accused, they threatened her and asked her to complain wherever she wants and that they would see her end. It is, according to him, the matter is under investigation and the complicity of the petitioners is well shown through the allegations in the complaint.

7. Though the learned counsel for the petitioners made an attempt to convince the Court by submitting that it is purely a civil dispute, but the *de facto* complainant converted it into a criminal action, and in fact the *de facto* complainant ought to have proceeded by filing a suit for redressal of her grievance for enforcement of Agreement of Sale, more particularly, when the title deed vested in Surjit Reddy, who is petitioner/A4 in Criminal Petition No.1526 of 2017 and by virtue of execution of General Power of Attorney made in favour of his father, who is 1st petitioner/A-1 in Criminal Petition No.1831 of 2017, it cannot be said that there was any dishonest intention in selling the property to the *de facto* complainant.

8. A perusal of the complaint averments would refer to the Gift Settlement Agreement said to have been executed by Hussain Bi in favour of Davood Khan, her younger sister's son. The said Gift Settlement Agreement is not filed into Court. Learned counsel, in fact, at one stage during arguments stated that it was done by 'Hiba' through which the property was transferred by late Hussain Bi in favour of Davood Khan. But it appears that the said submission is without any material to substantiate it when the complaint itself refers to Gift Settlement Agreement dated 23.2.2008. Therefore, it cannot be viewed that it is only a Hiba, but not by a written instrument. The petitioners herein claiming title tracing the source of title to the said Gift Settlement Agreement.

9. The submission of the learned counsel that the *de facto* complainant has no right to question the Gift Settlement Agreement or

refer to the said document attributing forgery and fabrication as transfer of title by way of execution of Registered Sale Deed, dated 27.10.2010 in favour of Shaik Zilani Basha by Pathan Davood Khan for a consideration of Rs.6,45,000/- and the said Zilani Basha, who, in turn sold it to M.Sujit Reddy for a consideration of Rs.6,50,000/- by Registered Sale Deed, dated 18.4.2012 were effected.

10. But one thing is certain that without there being a conveyance deed from Hussain Bi in favour of Davood Khan, the said Davood Khan registers Sale Deed in favour of Zilani Basha and the said Zilani Basha again executes a Registered Sale Deed in favour of Sujit Reddy.

11. The present petition is filed to quash the First Information Report, certainly, a probe has to be made by the investigating officer into the complaint allegations as the *de facto* complainant has parted with huge sum of Rs.24,00,000/- towards one-fourth sale price for purchase of six acres of land. Hence, it cannot be viewed that the investigation into crime is nothing but abuse of the process of law, as sought to be viewed by the learned counsel for the petitioners.

12. Hence, both Criminal Petitions are dismissed.

. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petitions stand closed.

A.SHANKAR NARAYANA

Dt. 20.03.2017

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