

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.3268 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the First Information Report in Crime No.186 of 2017 of Police Station Narsingi, Cyberabad.

2. Petitioners are arraigned as accused Nos.1 to 3 in the aforesaid crime. They alleged to have committed the offences punishable under Sections 447, 427, 420, 468, 471 and 506 I.P.C.

3. Heard Sri M.C. Acharyulu, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Telangana.

4. The main submission of the learned counsel for petitioners is that respondent No.2 – *de facto* complainant having sold the subject property under an agreement of sale, having delivered possession thereof to the petitioners and having received Rs.35,00,000/- towards part of sale consideration and passed receipts, deliberately avoided to receive the legal notice, which was got issued by the petitioners. Learned counsel would also submit that the petitioners were falsely implicated and thus, pleads their innocence. It is also according to the learned counsel that even, the allegations in the complaint do not make out a case for proceeding with investigation.

5. Learned Additional Public Prosecutor would resist the request and would submit that the agreement of sale is unregistered and, ofcourse, the receipts dated 12.11.2015 and 11.12.2015 are with typed matter.

6. The submissions made by the learned counsel for petitioners, when looked at in the light of the complaint allegations, relate to disputed questions of fact, which are to be resolved during trial, but not by conducting a roving enquiry under Section 482 of the Code. Therefore, it cannot be said, at this stage, that there are no *prima facie* allegations in the complaint and investigation into crime would amount to the abuse of process of law.

7. Hence, the Criminal Petition is dismissed. However, it is made clear that the Investigating Officer would follow the procedure inlaid by the provisions of Section 41A of the Code and the guidelines laid down by the Honourable Supreme Court in **Arnesh Kumar v. State of Bihar and another**¹. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A.SHANKAR NARAYANA, J

April 21, 2017.
MD

¹2014 (8) SCC 273