

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1816 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the sole accused viz., Maduri Cheralu, requesting to quash the proceedings in C.C. No.47 of 2016 on the file of III Additional Judicial Magistrate of First Class, Warangal.

2. The prosecution alleged that the petitioner has committed the offences punishable under Sections 417, 420 and 506 of Indian Penal Code, 1860 (IPC).

3. Heard Sri M. Ajay Kumar, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

4. The learned counsel for the petitioner would submit that it is a clear case of civil dispute and prosecution of the petitioner for the offences alleged is not tenable. He would submit that property in dispute herein is subject matter in O.S. No.334 of 2011 on the file of Principal Junior Civil Judge, Warangal, against the petitioner herein and one Mohd. Kasim Ali, as defendant Nos.1 and 2, respectively, seeking the relief of perpetual injunction to restrain them from

interfering with the possession of the plaintiff viz., Kota alias Sriramula Vishala over the subject property.

5. Per contra, the learned Additional Public Prosecutor would contend that it is a clear case of cheating as the petitioner herein is arrayed as defendant No.1 in the suit with dishonest intention, right from the beginning, got mentioned Survey Nos.153 and 154/C situated at Thimmapur Gram Panchayat, Urus Village, Warangal Mandal and District, instead of mentioning Survey Nos.152/A, 153/C, 154/A, for the plot admeasuring 157 square yards, which plot actually belongs to the plaintiff in O.S. No.334 of 2011.

6. To appreciate the submissions made by both sides, it is necessary to refer to the complaint allegations. The complaint allegations would reflect that the *de facto* complainant viz., Smt. Shamshad Jahan Begum, has purchased a plot, admeasuring 150 square yards, comprised in Survey Nos.152/A, 153/C and 154/A in the year 1990 from the petitioner; the petitioner asked her to secure intending purchaser as he intends to sell yet another plot of 157 square yards in the said survey numbers; the *de facto* complainant introduced her friend Thallapalli Benarji, who purchased the said open plot from the petitioner; but, the petitioner, at the time of selling the said plot to Thallapalli Benarji, mentioned the survey numbers of the plot as 153 and 154/C, which plot actually belongs to Smt. Kota Sriramula Vishala, who is the plaintiff in O.S. No.334 of 2011; thereafter, when the said Benarji got transfer, he intended to sell the plot and the *de*

facto complainant purchased that plot also in the year 2000 under a registered sale deed. When she intended to raise constructions on that plot, Smt. Kota Sriramula Vishala and her husband prevented them from raising constructions claiming ownership and title over the said plot. When the *de facto* complainant made enquires, she found that the said plot belongs to Kota Sriramula Vishala and then she could detect that the petitioner herein played fraud and when she approached him and requested to pay back the market rate towards cost of the said plot or to give any other plot, he alleged to have not only asked her to do whatever she likes, but also threatened her with dire consequences.

7. A copy of the plaint submitted by the petitioner would also show that Kota Sriramula Vishala filed the aforesaid suit against the petitioner arraying him as defendant No.1 and one Md. Kasim as defendant No.2 for plot No.14, admeasuring 157 square yards in Survey Nos.153 and 154/C of Urus Village, Warangal Mandal and District.

8. Now turning to whether the dispute can be construed as purely of a civil nature or whether there was dishonest intention on the part of the petitioner when he alienated the said plot in favour of Thallapalli Benarji, the very fact that he has got mentioned wrong survey numbers for the plot he sold to Benarji which plot, in fact, is owned by the plaintiff in the aforesaid suit. The dishonest intention of the petitioner from the inception cannot be ruled out, however, subject to full-fledged trial that takes place in the C.C., motive and dishonest

intention of the petitioner can be culled out not only from the inferences that can be drawn from the proved facts, but also from the documentary evidence coupled with oral evidence, in a case of this nature. This apart, the accusations attributed to the petitioner that he even threatened the *de facto* complainant, when she requested him for payment of money estimating the cost of the plot as on that day or to give yet another plot in alternative, are all sufficient to arrive at that there are *prima facie* allegations against the petitioner to proceed with the trial. Thus, there is no merit in the present petition. Hence, certainly, request of the petitioner to view the conducting trial against him in C.C. as abuse of process of Court, is without any merit.

9. Therefore, the Criminal Petition is dismissed at the admission stage itself.

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

A. SHANKAR NARAYANA, J

March 13, 2017.

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