

HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.4799 of 2011

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioner/A2 seeks quashment of proceedings against him in FIR No. 526 of 2010 of Saifabad Police Station, which was registered for the offences under Sections 406, 420 read with Section 120(b) and 34 of the Indian Penal Code.

2. The case of the complainant is that the second respondent who is an advocate by profession filed a private complaint under Section 200 Cr.P.C before the I Additional Chief Metropolitan Magistrate at Nampally, Hyderabad for the offences under Sections 406, 420 read with 120-B and 34 IPC. The learned First Additional Chief Metropolitan Magistrate referred the complaint under Section 156 (3) Cr.P.C.

3. The contention of the learned counsel appearing for petitioner is that he is only a witness to the memorandum of understanding dated 24.8.1996 between A1 and the complainant/R2. A4 purchased the property in the year 1984 in the name of A3, being minor and A1 is the mother of A3 and wife of A4. After purchase A3 went to abroad for employment and in the year 2004 after retirement came to India and settled here. It is stated that disputes arose between R2 and the petitioner/A2 in respect of the same property and the petitioner came to know that Abdul Hafeez and Abdul Hameed filed O.S.No. 1448 of 2008 on the file of Senior Civil Judge, at L.B.Nagar , R.R. District against the complainant/second respondent for possession of the said property. The criminal complaint was filed basing on the registered sale deed dated 8.6.1996. In the month of August 1996, the petitioner approached the complainant at his office at Basheerbagh, Hyderabad and he made a claim for that property under the

sale deed dated 22.7.1985, the complainant paid Rs. 25,000/- in cash to A1/Smt.Shaheda Begum, mother of A3 by obtaining an undertaking dated 24.8.1996 and according to it neither A3 nor Abdul Hafeez have any claim over the property.

4. A perusal of the private complaint which was referred under Section 156(3) of Cr.P.C to S.H.O, Saifabad goes to show that A3 to A5 have purchased a plot admeasuring 250 square yards in S.No. 15/1 and 15/2 situated at Hydershakota Village, Rajendranagar Mandal, R.R. District under registered sale deed dated 22.7.1985 from Y. Gopalakrishna Murthy. A2 entered into possession of the plot in April, 2008. When the petitioner was called upon A2 to vacate the possession, he refused the same. Therefore, petitioner filed O.S.No. 1448 of 2008 on the file of I Additional Senior Civil Judge, Ranga Reddy District.

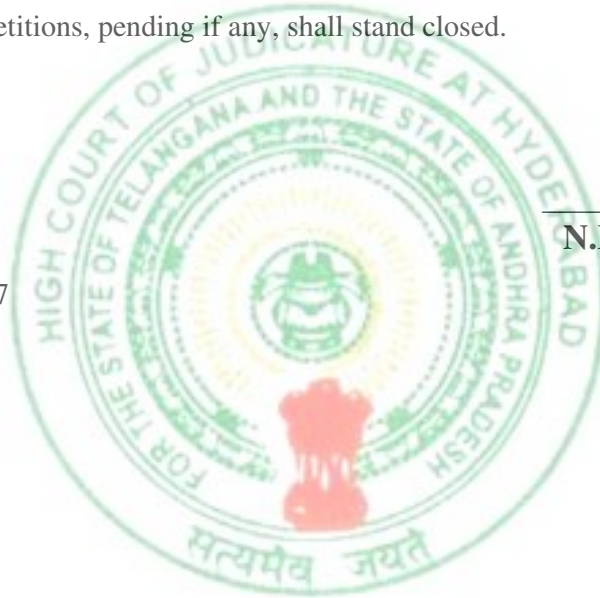
5. The facts and circumstances go to suggest that the second respondent as a counter blast filed a civil suit wherein, he is the sole defendant. The private complaint filed by the second respondent also makes a reference to the settlement arrived at between the parties to which the petitioner is a witness to the said memorandum of understanding and he is neither owner of the property nor he got any right on the said property. What manifests from the plain reading of the complaint is that even though the second respondent claims himself to be a bonafide purchaser for the valuable consideration and he was informed that property was purchased by A1 in the name of A3 and paid a sum of Rs. 25,000/-.

6. The above facts clearly show that the dispute in between the second respondent and the petitioner is purely civil in nature and civil suit in O.S.No. 1448 of 2012 on the file of First Additional Senior Civil Judge, Ranga Reddy District was subsequently dismissed. All these facts were gone into in the said suit and decided

the rights of the parties. Launching of a private complainant resulting in the registration of crime ultimately amounts to abuse of process of law. The petitioner/A2 claiming himself to be the owner of the property under registered sale deed, hence, allowing further investigation in the said crime against the petitioner/A2 is unjustified. Accordingly, proceedings in FIR No. 156/2010 on the file of Saifabad Police Station are quashed so far as the petitioner/A2 is concerned.

7. Accordingly, the Criminal Petition is allowed. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

Date: 21.09.2017
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N.BALAYOGI, J