

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No. 2481 of 2011

ORDER:

This petition is filed by the petitioner seeking for quash of proceedings in Crime No.204 of 2011 of Banjara Hills Police Station, Hyderabad.

2. Heard the counsel for the petitioner and the Public prosecutor for R2. R1 does not appear in spite of notice.

3. The case was registered for the offence under Section 447 read with Section 149 IPC.

4. The counsel for the petitioner submits that the allegations in the complaint are baseless and absolutely no offence under Section 447 IPC can be made out, as the petitioner herein obtained the title to the land by virtue of sale deed, which is executed by the Court of III Additional Chief Metropolitan Magistrate, City Civil Court, Hyderabad on behalf of the judgment debtors in pursuance of the judgment, dated 16.09.2008, in O.S.No.342 of 2008 in E.P.No.1 of 2009.

5. The schedule of the said sale deed shows that it the same land, which is mentioned in the complaint. Hence, when such is the position of title, the offence under Section 447 IPC cannot be said to have been committed by the petitioner. The contents of the complaint do not make out any offence. The sale deed that is looked into by the Court is a registered sale deed and is an irrefutable document, which is permitted to be looked into at the

stage of quashment of the proceedings by the Apex Court in *Rajiv Thapar and others vs. Madan Lal Kapoor*<sup>1</sup>. Relevant paragraph reads as follows:

“29. The issue being examined in the instant case is the jurisdiction of the High Court under [Section 482](#) of the Cr.P.C., if it chooses to quash the initiation of the prosecution against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under [Section 482](#) of the Cr.P.C., at the stages referred to hereinabove, would have far reaching consequences, inasmuch as, it would negate the prosecution’s/complainant’s case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section - 482 of [Cr.P.C.](#) the High Court has to be fully satisfied, that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such, as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such, as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under [Section 482](#) of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under [Section 482](#) of the Cr.P.C.:-

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<sup>1</sup> 2013(3) SCC 330

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under [Section 482](#) of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."

With the above observations, the Criminal Petition is allowed and the proceedings in Cr.No.204 of 2011 of Banjara Hills Police Station against the petitioner are hereby quashed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

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T. RAJANI, J

November 9, 2017  
LMV