

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10442 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in Crime No.723 of 2016 on the file of IX Metropolitan Magistrate Court, Cyberabad, Kukatpally, for the offences punishable under Sections 447 & 420 IPC, registered basing on the complaint lodged by the second respondent, alleging that the petitioner created documents and trespassed into the land criminally, belonging to the second respondent.

No doubt, the contention of the learned counsel for the petitioner before this Court is that the dispute is purely civil in nature and he purchased the property from one M. Nanda Kishore under registered agreement of sale dated 02.01.2008 and the said M. Nanda Kishore purchased the property from one Smt. T. Sathyavathi, wife of the second respondent under agreement of sale dated 18.08.2005. He produced copies of the documents. But, whether the wife of the petitioner was the purchaser under agreement of sale and executed such agreement is a question of fact to be decided during investigation. But, at this stage, it is difficult to accept this contention that wife of the second respondent, being the owner, under the agreement of sale in favour of one M. Nanda Kishore who executed another agreement of sale in favour of this petitioner, since M. Nanda Kishore did not get any title under the agreement of sale. Even if, it is true, he cannot

convey the property, since the agreement to sell would not create any interest or title in the immovable property under Section 54 of Transfer of Property Act. Therefore, encroaching into the property, if it belongs to the second respondent based on such documents *prima facie* attracts offences punishable under Sections 447 & 420 IPC. Therefore, I find that it is not a fit case to exercise power under Section 482 Cr.P.C.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Dated:10.11.2017

SP

