

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Cr1.P.No.9949 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in Crime No.41 of 2017 of Puttaparthi Urban Police Station, Puttaparthi, Ananthapur District, registered for the offence punishable under Section 420 IPC.

The 2nd respondent lodged a report with the police on 20.05.2017 alleging that he purchased Flat No.B2, Second Floor, D.No.3-2329 under agreement of sale dated 22.02.2017 from M.Radhakrishna Reddy, S/o M.A.Reddy, D.No.3-733A in Sai Shivaganga Apartment for Rs.2,50,000/- incorporating usual terms to execute registered sale deed as and when demanded by the petitioner, also on condition to indemnify the loss, if any, sustained by the 2nd respondent based on invalid power of attorney and defrauded him.

In the present petition, the main contention before this Court is that if any act committed by the petitioner is breach of contract, not fraud as defined under Section 415 IPC and thereby the question of constituting the offence punishable under Section 420 IPC does not arise and when a civil litigation has given cloak of criminal offence, the Court has to quash the proceedings by exercising inherent jurisdiction under Section 482 Cr.P.C. Therefore, requested this Court to quash the proceedings in the crime against the petitioner.

During hearing, learned counsel for the petitioner reiterated the same contentions at the stage of admission and

this Court ordered notice to the 2nd respondent, but he did not appear before the Court, though notice was served and proof of service is filed.

As seen from the allegations made in the complaint, the 2nd respondent purchased Flat No.B2 in 2nd floor of the Apartment bearing No.3-2329 incorporating usual terms and conditions, but by furnishing the copy of invalid Power of Attorney by the petitioner. If really, the 2nd respondent suffered any injury on account of failure of the petitioner to execute registered sale deed, in view of the invalid power of attorney, the remedy open to him is to approach civil Court for specific performance of agreement of sale seeking a direction against the petitioner to execute registered sale deed by receiving balance sale consideration, if any due and in the alternative for refund of the amount. Instead of approaching the civil Court, the 2nd respondent gave colour of criminal offence to the act allegedly committed by the petitioner and lodged a report with the police. When the allegations made in the complaint are purely civil in nature, this Court can quash the proceedings exercising inherent power under Section 482 Cr.P.C. The same principle is laid down in the decisions of the Apex Court in **G.Sagar Suir and another v State of U.P.**¹. The obligation of the petitioner is to perform his part of agreement to execute registered sale deed in favour of the 2nd respondent and failure to execute registered sale deed may give rise to cause of action seeking specific performance

¹ 2002(3) SCC 633

under the Specific Relief Act and even if he committed breach of agreement, it is purely civil wrong and not a criminal breach of trust. The same principle laid down in **M/s Thermax Limited and others v K.M.Johny and others**² . Therefore, by applying the principles laid down in the above judgments, the allegations made in the complaint are purely of civil nature, I find that it is a fit case to exercise power under Section 482 Cr.P.C. to quash the proceedings. Therefore, the proceedings in Crime No.41 of 2017 are hereby quashed as the complaint is lodged to wreck vengeance against this petitioner, to coerce the petitioner to execute registered sale deed instead of approaching the civil Court by applying Guideline No.7 in **State of Haryana v Bhaganlal**³.

Accordingly, the criminal petition is allowed quashing the proceedings in Crime No.41 of 2017 of Puttaparthi Urban Police Station, Puttaparthi, Ananthapur District, registered for the offence punishable under Section 420 IPC.

Miscellaneous petitions, if any in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

06.12.2017
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² 2011(13) SCC 412

³ 1992 Suppl (1) SCC 335