

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.984 OF 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner-complainant aggrieved by the order dated 25.03.2017 passed in SR.No.127 of 2017 on the file of the XVII Additional Chief Metropolitan Magistrate, Hyderabad (for short, 'the trial Court'), wherein the trial Court held that the allegations made in the complaint filed by the petitioner herein do not make *prima facie* case of cheating, which give right to civil cause of action, and ultimately, dismissed the same under Section 203 Cr.P.C.

2. Heard the learned counsel for the petitioner-complainant, learned Assistant Public Prosecutor representing the 1st respondent-State and the learned counsel for the 2nd respondent-accused, apart from perusing the material on record.

3. The averments of the complaint lodged by the petitioner against the 2nd respondent-accused are as follows:

The 2nd respondent-accused had induced the petitioner-complainant stating that he is constructing a school building and offered that if she invests amount in the said project, she will be given partnership for the funding made by her. Believing the said words, the complainant paid an amount of Rs.25,00,000/- to the accused, i.e., by way of cheques bearing Nos.308104, 308105, 308113 drawn on Axis Bank, Srinagar Colony Branch, dated 13.12.2006 and 08.02.2007 for Rs.19,00,000/- and an amount of Rs.6,00,000/- was paid by way of cash. Thereafter, the accused convinced the complainant that he is constructing residential apartments and offered to give one flat in the said construction to

compensate the said investment in the school project and the accused had executed an agreement of sale dated 01.10.2008 promising to register the same once the project is completed. The wife of the accused stated to the complainant that due to some unavoidable circumstances, the accused had sold the property to some others and she made a false promise that another property will be given to the complainant. Thereafter, the accused had issued several cheques on various occasions to the complainant constantly and deliberately cheated the complainant. The said cheques were bounced for want of sufficient funds. The complainant has substantial documents and evidence to show that the accused had deliberately misrepresented her, took an amount of Rs.25,00,000/-, induced her and cheated her with dishonest intention and also threatened her.

4. As seen from the material on record, there cannot be any partnership in running a school and the school is required to be run by a registered society. In the course of submissions, it is brought to the notice of this Court that the agreement with regard to sale of the flat was said to have been entered on 01.10.2008 and the impugned complaint was filed in the year 2017. The material placed on record and the submissions made on behalf of the petitioner reveals that some financial transactions took place between the parties to the litigation and there is some default in payment of amounts by the accused. It may give rise to civil litigation. The averments made in the complaint do not disclose any *prima facie* case to proceed against the accused for the offences under Sections 420 and 506 I.P.C. No element of cheating is made out in the instant case. The Court below had given number of reasons and dismissed the complaint under Section 203 Cr.P.C. The finding of the Court below is in consonance with the material on record. There is nothing to take a

different view. There is no miscarriage of justice. Under these circumstances, the Criminal Revision Case is devoid of merit and it is liable to be dismissed.

5. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 25-04-2018

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