

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.1534 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioner/ A1, seeking to quash the proceedings in C.C.No.1426 of 2015 on the file of the II Metropolitan Magistrate, Cyberabad, where taken cognizance for the offences punishable under Sections 420 and 406 IPC, which is outcome of crime No.552 of 2011 dated 17.11.2011, registered on the private complaint of the 2nd respondent/ de facto complainant by name B.Anjaiah, referred to police under Section 156(3) Cr.P.C. by the learned Magistrate concerned.

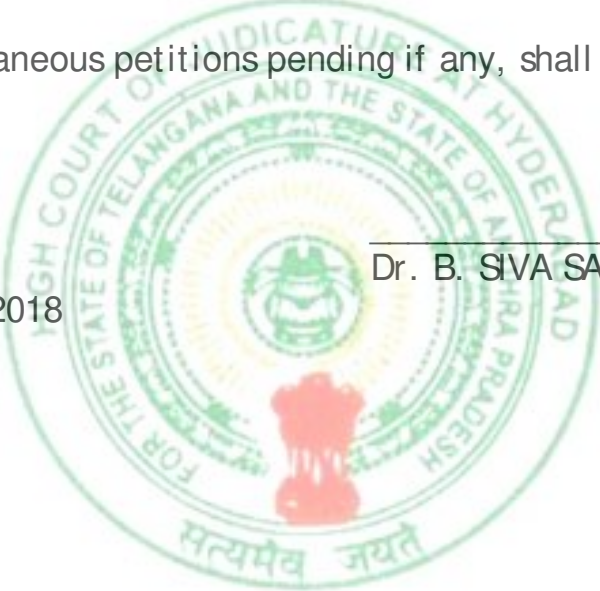
The sum and substance of the accusation from the police final report, outcome of the private complaint registered as FIR from the police investigation discloses that A2 executed General Power of Attorney-cum-sale agreement in favour of A1 and A1, in turn sold the property through A3 in favour of the de facto complainant and delivered possession by execution of sale deed having received the amount and also through A3, no other than relative of the de facto complainant, a tenant was inducted it is through the tenant came to know already A2 mortgaged the property prior to entering into sale agreement with A1 by A2 and the Bank is proceeding under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act').

The contention of the learned counsel for the petitioner/ A1 is that he is a bonafide purchaser under contract for sale-cum-General Power of Attorney, under which he executed sale deed by stepping into the shoes of the original owner and the original owner/ A2 did not mention about the property already subject matter of mortgage, such a pretense is not a ground to quash proceedings but for if at all serve as defence left open.

With the above observations, the Criminal Petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Date: 22.11.2018
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Dr. B. SIVA SANKARA RAO, J