

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.356 of 2018

ORDER:

Heard learned counsel for petitioner Sri K.Ravi Kanth and this CrI.R.C. is disposed of at the admission stage as this Court finds no reason to order notice.

2) This Criminal Revision Case is preferred by the petitioner/accused aggrieved by the order dated 22.08.2017 in CrI.M.P.No.3604 of 2012 in C.C.No.673 of 2011 on the file of III Metropolitan Magistrate, Cyberabad, L.B.Nagar whereby and whereunder the learned Judge dismissed the petition filed under Section 237 Cr.P.C. to discharge him from the case.

3) The main contention of learned counsel for petitioner is that de-facto complainant and one Ch.Devender Reddy entered into an agreement to sell with the accused to purchase the property and subsequently they could not pay the full amount and they themselves agreed that petitioner/accused can sell the property to third party and pay back the advance amount paid by them. In that view of the matter, he sold the subject land to one K.Srikanth under registered sale deed dated 18.07.2011 wherein the de-facto complainant also signed as one of the attestors. Learned counsel would further submit the co-purchaser viz. Ch.Devender Reddy in his 161 Cr.P.C. statement clearly mentioned that out of the advance amount payable i.e. Rs.50 lakhs, they paid only Rs.40 lakhs within four or five months and in the

month of June, 2010 when the petitioner/accused came to Warangal and asked them about the remaining amount, they expressed their inability to pay the balance amount due to slump in the real estate market and told that he can sell away the land to anybody and return their advance amount. Learned counsel would submit in view of above facts, the trial Court ought to have discharged him from the case but erroneously dismissed the petition.

a) In this context, when the order impugned is perused, the trial Court observed that veracity of the facts in 161 Cr.P.C. statement of the co-purchaser and the other contentions raised by the petitioner have to be looked into in detail during the course of trial and unless the witnesses are examined before court of law, it will be difficult to ascertain the truth of the contention of either side. On that observation the trial Court dismissed the petition and embarked upon framing charge.

4) I find no illegality or perversity in the order impugned. The petitioner shores upon two main factors.

(i) that the de-facto complainant himself signed on the sale deed as one of the attestors.

(ii) that the co-purchaser in his 161 Cr.P.C. statement has clearly stated as if they failed to pay the balance advance amount within time and they themselves requested the petitioner/accused to sell the subject property and pay their advance amount.

5) As rightly observed by the trial Court, the veracity of these facts need to be tested on the anvil of the trial and they cannot be readily determined during enquiry in discharge application. Therefore, the trial Court was right in embarking upon framing charge. The petitioner is directed to face the trial and vindicate his stand during trial.

6) Accordingly, CrI.R.C. is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Date: 09.02.2018
Murthy



U.DURGA PRASAD RAO, J