

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL PETITION No.9876 OF 2013

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.467 of 2011 on the file of the XV Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District.

The brief facts of the case as per the charge sheet are that the petitioner/accused is a Brahmin by caste and on seeing a matrimonial advertisement got published in daily newspaper by the de facto complainant, the petitioner contacted the de facto complainant, who belongs to SC community and on their willingness they got married at Arya Samaj Mandir, Seethaphalamandi, Secunderabad on 14.04.2004. The de facto complainant purchased a flat No.405, Block-B, NCL Godavari, Pet Basheerabad by taking loan of Rs.6.9 lakhs from ICICI bank in the year, 2003 prior to her marriage. She got registered the said flat in her name. The petitioner has not contributed any amount for the said flat. After their marriage, they have shifted to the said flat in April, 2004 and living there. The de facto complainant used to pay monthly instalments of Rs.11,654/- to the ICICI Bank. On the pressure of the petitioner, the de facto complainant accepted to mortgage their flat in Chola mandalam Bank at Begumpet, Hyderabad. As such, the de facto complainant and the petitioner mortgaged their flat in the said bank and borrowed Rs.12,00,000/- towards loan. The de facto complainant used to repay the loan amount at the rate of Rs.25,000/- per month but the petitioner did not repay any amount. The de facto complainant withdrawn cash of Rs.1 lakh and another Rs.1 lakh cash was handed over to the petitioner to purchase two plots to get register on both their names. The petitioner

took Rs.2 lakhs from the de facto complainant, purchased two plots at Shameerpet and intentionally registered in his name only. The documents clearly established that the two plots were registered in the name of the petitioner. The petitioner quarrelled with the de facto complainant regarding plots and other family disputes. Thereafter, the petitioner deserted her. The allegation against the petitioner is that he has misappropriated the money belonging to the de facto complainant. Due to the differences between them, the petitioner filed a petition under Section 13(1)(ia) of the Hindu Marriage Act before the Family Court, Secunderabad and the Court had granted decree of divorce in his favour.

Heard Sri M.Ram Mohan Reddy, learned counsel for the petitioner, learned Additional Public Prosecutor for the 1st respondent-State and Sri P.V.G.Krishna Murthy, learned counsel for the 2nd respondent.

Learned counsel for the petitioner referred to the findings rendered in F.C.O.P.No.186 of 2016 which reads as under:

"But on perusal of the passbook filed before the Court which is marked as Ex.A.5, it shows that a sum of Rs.5,70,000/- was paid to one Suresh Chand on 27.09.2007 and another sum of Rs.4,50,000/- was paid to one B.Anjaneyulu on 01.10.2007. As far as the said two persons are concerned, they are not vendors of the house plots. The house plots were registered by one M/s.Anuradha properties and Township Private Limited by its Managing Directors, M.Rama Chandra Reddy who is the GPA of original pattadars and the said sale deed was executed in favour of respondent herein. Therefore, the payment of the amounts reflected in the passbook in favour of one Suresh Chand and B.Anjaneyulu who are not the vendors. The petitioner herein has failed to prove as to whom she paid and as to how they are related to the transactions under Exs.A1 and A.2 certified copies of sale deeds. Further, on perusal of the said Exs.A.1 and A.2, it clearly discloses that the petitioner herein has attended the office of the Registrar and signed the sale deed under Ex.A1 dated 27.09.2007 as witness. Therefore, the petitioner was very much aware of the execution of the sale deed in the name of the respondent by the GPA of the original pattadars and she never raised any objection for the execution of sale deed in his name. Further, the said sale deed under Ex.A2 was dated 16.10.2007 was executed in favour of the respondent by same vendors. Therefore, in the said circumstances, the contention of the petitioner that she was not aware of execution in the name of respondent and that he has clandestinely got executed the registered said plots is false. As already stated

above, the petitioner herein miserably failed to prove the payment of sale consideration to the vendors. The payment made in the name of one Suresh Chand and B.Anjaneyulu are nowhere concerned with the transaction under Exs.A.1 and A.2. Therefore, in the said circumstances, I am of the opinion that the petitioner herein miserably failed to prove that she paid the sale consideration for purchase of the plots or the petition schedule properties were purchased by the respondent with the funds provided by the petitioner. Accordingly, this issue is answered against the petitioner.”

Learned counsel for the petitioner by placing reliance on the findings of the trial Court submits that the petitioner has no dishonest intention to purchase the said plots. He further submits that the de facto complainant was an attesting witness in one of the said sale deeds and she had knowledge about the purchase of plot and therefore, the malafides cannot be attributed to the petitioner that he had a dishonest intention to purchase the plot.

It is pertinent to note that they are living together but there were some misunderstandings between them. According to them, those misunderstandings are that some money was entrusted by the de facto complainant to the petitioner for purchasing the plots. The petitioner purchased the plots in his name and she was a witness in one of the registered sale deed, so she had knowledge of purchase of plot. Hence, it cannot be said that the petitioner has dishonest intention to cheat the de facto complainant from the beginning. The transaction took place when they lived together.

Having regard to the facts and circumstances of the case, there are no ingredients of Section 420 IPC to connect the petitioner with the crime. Therefore, the proceedings in C.C.No.467 of 2011 on the file of the XV Metropolitan Magistrate, Cyberabad at Medchal, Ranga Reddy District are quashed.

In the result, the Criminal Petition is allowed. Interim order granted on 13.09.2013 shall stand vacated.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDI SEVA SHYAM PRASAD, J

Date : 20.03.2018
ssp

