

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Petition No.7707 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioners (except A.1—G.Srinivas, the array of other accused is not mentioned in FIR and the petitioners are mentioned as family members of G.Srinivas) seek to quash the proceedings against them in Crime No.239/2012 of Musheerabad PS, Hyderabad, registered for the offences under Sections 468, 471, 419, 420 and 406 IPC.

2) The case of the *defacto* complainant is that herself and her brother are absolute owners of the premises bearing No.1-1-536, 1-1-537 and 1-1-540/A and they entered into a development agreement with G.Srinivas (A.1), Proprietor of Sri Sai Developers to develop the property into multi-storied complex and as per the said agreement, 13 flats have to be given to the owners and remaining 12 flats have to be taken by G.Srinivas. While-so, few days after entering into the development agreement, G.Srinivas represented them that he needed his share of flats to enable him to sell to third parties to secure finances for construction of the project. Believing him, the complainant registered in his favour the 12 flats fell to his share. After entering into agreement, the said G. Srinivas constructed a skeleton structure of five(5) floors but later did not proceed with further construction. When enquired, he was representing that he has undertaken another project by spending about 2 to 3 Crores and entire money was struck up in that project and therefore, he was trying to secure finance from difference

sources. On 20.06.2012, hundreds of people gathered near the construction site and created a commotion and on enquiry, the complainant came to know that G.Srinivas sold his share of flats and also entered into sale agreements and mortgages in respect of some of the flats fell to the share of complainant by forging signatures of the complainant. He was in due of Rs.8,00,000/- to the complainant and that amount was also not paid. In the complaint, it is alleged that the Srinivas cheated the complainant with the connivance of his family members, who are the petitioners.

- 3) Investigation is reported to be pending.
- 4) Heard arguments of Sri Prabhakar Sripada, learned counsel for petitioners and learned Additional Public Prosecutor for the State (Telangana).
- 5) Denying the complaint allegations, it is vehemently argued by learned counsel for petitioners that even if the complaint allegations are taken to be true, no specific overt-acts are attributed against the petitioners except mentioning their names in the FIR and therefore, continuation of criminal proceedings would amount to abuse of process of the Court and thus prayed to quash the proceedings against them.
- 6) Learned Additional Public Prosecutor argued that investigation is in the midway and the main culprit i.e, G.Srinivas is still at large and police are trying to arrest him to secure the valuable information and the role of the petitioners can be well ascertained only after completion of investigation.

7) I have perused the FIR and the Case Diary produced by the learned Addl. Public Prosecutor. So far LWs.1 to 9 are examined and as rightly submitted by learned Addl. Public Prosecutor, the investigation is in the crucial stage. It is true in the FIR, the petitioners are concerned, it is only mentioned that Srinivas has cheated the complainant with the connivance of his family members but no further details about the role played by the petitioners is mentioned. However, FIR is not an encyclopaedia of all the facts concerning to offences. It is only after investigation, the complicity or innocence of the petitioners can be determined. As the matter stands, in the considered view of this Court, investigation shall lead to its logical conclusion. Therefore, the Investigating Officer shall proceed with the investigation. However, if the petitioners are not on bail, the Investigating Officer shall not arrest them during the course of investigation. He can summon and enquire them. The petitioners shall also cooperate with the investigating agency for smooth and quick completion of investigation.

8) Accordingly, this Criminal Petition is disposed of.

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

Date: 24.07.2018
scs

U. DURGA PRASAD RAO, J