SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.9151 of 2011

ORDER:

This criminal petition is filed, seeking for quash of the order in CRLMP.No.4296 of 2011 in CC.No.334 of 2010 dated 11.08.2011 on the file of the XVI Additional Judge cum XX Additional Metropolitan Magistrate, City Criminal Courts, Nampally.

2. Heard the counsel for the petitioner and the learned Public Prosecutor, appearing for the sixth respondent. None appears for R1 to R5 in spite of notice.

3. The counsel for the petitioner submits that the impugned order of the Court below, in dismissing the petition filed by the petitioner, seeking to call for certain documents from the bank, is illegal.

4. The facts, as reflected in the complaint, are that A1 is the partnership firm and A2 to A5 are partners in the said firm. The complainant entered into a development agreement with M/s. Ch. Narsi Reddy and P. Venkat Reddy and constructed flats. A2 approached the complainant and her power of attorney holder, Sri N. Rama Koteswara Rao, for purchase of six flats in the said complex. The complainant, as the power of attorney holder of the petitioner herein, was also present during the deliberations. Ultimately, A2 agreed to purchase the flats at the semi-finished stage and agreed to pay Rs.72 lakhs for all the six flats within six months from the commencement of the registration of the flats. A2 requested the complainant to get the flats registered in the names of the nominees

of A1. Thus, the complainant and the owner of the land registered six unfinished flats in the names of A2, A4 and A5 on 30.08.2004 and in the name of M/s. P. Satyanarayana, B. Shiva Shankar and B. Venkateswarlu on 08.10.2004 and later cheques were issued by A1 firm.

5. The counsel for the petitioner submits that the in order to prove the nexus between A1 and other accused, it is necessary to summon the bank statement pertaining to A1 firm, to show that the amount of loan, which was sanctioned in favour of A1, was transferred to the accounts of the other accused and to prove the nexus between A1 and the transactions.

6. This Court finds some force in the contention of the counsel for the petitioner, as the cheques were issued by A1 and sale deeds were executed in the names of the other accused. Hence, unless the nexus between the accused is brought forth, the petitioner would not be able to prove his case with regard to the liability of A1, which issued the cheques. Hence, in view of the above, the order of the Court below is set aside.

In the light of the above, the criminal petition is allowed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

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T. RAJANI, J

September 7, 2018
DSK