HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.16128 of 2016

ORDER:

The petitioner is A4 among six accused in C.C.No.743 of 2014 pending on the file of the learned II Additional Chief Metropolitan Magistrate, Hyderabad, taken cognizance for the offences punishable under Sections 120B, 465, 468, 419, 471 IPC and Section 82(c) & (d) of the Registration Act, 1908, which is outcome of the private complaint of two complainants-respondents 2 & 3, of whom respondent No.3 died in the year 2013 itself as per the police endorsement from the letter received and the service of summons could not be therefrom, in F.I.R. No.384 of 2010 dated 05.05.2010 against six accused and from the investigation by examining as many as fourteen witnesses including LWs 12 to 14, Investigating Officers, besides two complainants-LWs 1 & 2 and other circumstantial witnesses LWs 3 to 11, of whom LW8 is the Handwriting expert, who given his opinion, LW9 is the Senior Branch Manager, Syndicate Bank, Afzalgunj, Hyderabad, who given report about the details of the officer who conducted enquiry on the mortgage loan under document No.1486/2008 to A3, LW10 is the witness for attesting to the bank loan document No.1486/2008 supra, LW11 is the Sub-Registrar, Vallabhnagar, Hyderabad, who issued the clarification report on the certificate of Encumbrance. So far as the accusation against the petitioner-A4 is concerned, he as the Assistant Bank Manager of Syndicate Bank processed the loan application allegedly without any inspection about mortgaged property covered by bank loan document No.1486/2008. Undisputedly, from the police final report the loan was sanctioned in 2000/2001 from the mortgage of property covered by the registered Sale Deed No.1122/1993 dated 17.03.1993 and A3 was enjoying the benefits of loan including SOD limits since June, 2003 and it is pursuant to said loan repaying and availing in that process registered the mortgage covered by document No.1486/2008 executed. A perusal of the Encumbrance Certificate filed shows only some registered transactions of March, 1993 in relation to the property when encumbrance sought for the period from 1982 to March, 2008. Second complainant is vendor to the first complainant under the registered Sale Deed No.162/2000 dated 20.01.2000.

2. The sum and substance of the accusation is that the so-called Sale Deed of 1993 is fake and forged one by mortgage, of which A3 availed the loan and the property belongs to the second complainant that was sold under the registered Sale Deed No.162/2000 dated 20.01.2000 to first complainant and earlier not sold as referred supra. The Sale Deed transaction of document No.162/2000 dated 20.01.2000 no way reflected in two Encumbrance Certificates in relation to the property discussed supra, but for the Sale Deed dated 17.03.1993 is registered on 18.03.1993. Once such is the case, there is nothing to say for the so-called Sale Deed of 1993 for the loan sanctioned in 2000/2001 the Branch Manager is the privy as mortgage of the Sale Deed of 1993 with the bank was only in the year

2000/2001 and the allegation is forgery and creating forged document as security to the availment of loan. What all the allegation of not inspected the mortgaged property physically by itself no way constitute any of the offences much less with antedate privy since 1993 from creation of the Sale Deed for the mortgage in 2000/2001. Thus, none of the offences either under Section 120B or under Sections 465, 468, 419, 471 IPC are applicable including Section 82 (c) & (d) of the Registration Act, 1908 against the petitioner merely because he processed the loan application that too when the Encumbrance Certificate as referred supra no way reflects the Sale Deed transaction of document No.162/2000 dated 20.01.2000. Thereby, the registration of crime and the filing of final report against the petitioner-A4 taking cognizance consequently no way survive and sustain.

3. Accordingly, this Criminal Petition is allowed and the proceedings in C.C.No.743 of 2014 pending on the file of the learned II Additional Chief Metropolitan Magistrate, Hyderabad are quashed against the petitioner-A4. The bail bonds of the petitioner-A4, if any, shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20.12.2018
MVA