

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.9411 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. seeking to quash the proceedings against the petitioner-A.1 in Crime No.141 of 2015 of Trimulgherry Police Station, Secunderabad, registered for the offences under Sections 420, 406, 417, 468, 471, 120B I.P.C. r/w Section 34 I.P.C.

2. Heard the learned counsel for the petitioner-A.1, the learned Assistant Public Prosecutor for respondent No.1-State and the learned counsel for respondent No.2-*de facto* complainant, apart from perusing the material available on record.

3. Learned counsel for the petitioner-A.1 would submit that the alleged offences occurred on 11.10.2006, but the report was lodged on 04.09.2015 after a lapse of 9 years without there being any explanation for the delay; the petitioner-A.1 is a *bona fide* purchaser and victim; the dispute between the parties is civil in nature; there is *prima facie* case that P.B.Sridhar sold the subject plot to Ameeta Singh under a registered sale deed in the year 1989 and again P.B.Sridhar sold the same plot to the petitioner-A.1 in the year 2006; the petitioner-A.1 purchased the plot from Ameeta Singh for a valuable consideration and the petitioner having come to know the defect in her title, she refunded the sale consideration of Rs.11,00,000/- to the *de facto* complainant on various dates during the year 2007 and obtained receipts duly signed by the *de facto* complainant, copies of the same are filed herewith; the *de facto* complainant deliberately concealed the receipt of said Rs.11,00,000/- from the petitioner-A.1; Criminal Petition No.4748 of 2016 filed by the petitioner-A.1 to quash the F.I.R. was dismissed on 06.04.2016; after tracing the receipts

showing the payments, this petition is filed again; there is no res judicata in the Criminal Petition; and ultimately, prayed to allow the Criminal Petition.

4. On the other hand, learned Assistant Public Prosecutor opposed the relief sought by the petitioner-A.1.

5. Learned counsel for respondent No.2-*de facto* complainant would submit that no amount was paid by the petitioner-A.1 as contended; in fact, P.B.Sridhar did not sold away the plot to the petitioner-A.1 in the year 2006; P.B.Sridhar was impersonated to register the sale deed in favour of the petitioner-A.1 as well as to open a bank account to receive the sale proceeds; the petitioner-A.1 had committed offences under Sections 420, 406, 417, 468, 471, 120B I.P.C. r/w Section 34 I.P.C.; the subject matter of this Criminal Petition was elaborately dealt in Criminal Petition No.4748 of 2016 by this Court and this Court was pleased to dismiss the same on 06.04.2016; all the grounds urged before this Court were taken in that petition; this petition is devoid of merit; and ultimately, prayed to dismiss the petition.

6. In view of the contentions putforth by both sides, the point for determination is, whether the proceedings in Crime No.141 of 2015 of Trimulgherry Police Station, Secunderabad, are liable to be quashed?

7. The allegations against the petitioner-A.1 are that by playing fraud, personating the original owner P.B.Sridhar, the petitioner-A.1 got registered the sale deed in her favour. The contentions putforth on behalf of the petitioner-A.1 are unsustainable at this stage that P.B.Sridhar registered two sale deeds in respect of the property, one in the year 1989 and another is in the year 2006 in favour of the petitioner-A.1. While dealing with the subject matter of this Criminal Petition, this Court had

elaborately answered all the contentions raised by the petitioner in Criminal Petition No.4748 of 2016 and dismissed the same on 06.04.2016. Further, the contention putforth by the petitioner-A.1 that she paid an amount of Rs.11,00,000/- to the *de facto* complainant on finding defect in her title was also dealt with by this Court in the earlier Criminal Petition. Further, the sale deed was registered in the year 2006, *vide* document No.1052/2006, and the complaint was filed before the Court in July, 2015. There are allegations of the petitioner-A.1 committing the offence under Section 420 I.P.C., which is punishable with imprisonment for term which may extend to seven years. There are allegations of personating P.B.Sridhar and opening bank account and receiving sale consideration against the petitioner-A.1. The aspect of limitation is required to be determined by the Court when taking cognizance. The truth or otherwise of the allegations are required to be determined during the investigation by the investigating officer. Considering the request in this petition amounts to sitting in review of the order passed in this crime in CrI.P. No.4748 of 2016. Therefore, this petition is devoid of merit and it is liable to be dismissed.

8. Accordingly, this Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 09-02-2018

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