HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1382 of 2018

ORDER:

Heard the counsel for the petitioner/A-5 as well as the learned Public Prosecutor for the first respondent-State.

The present revision case is filed against the orders dated 02.04.2018 passed in Crl.M.P.No.3432 of 2017 in C.C.No0. 981 of 2015 on the file of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad, dismissing the petition filed under Section 239 Cr.P.C. to discharge the petitioner/A-5 from the charges levelled against him for the offences under Sections 418, 420, 463, 468, and 471 IPC.

The brief facts of the case are that the second respondent herein who is the de facto complainant, lodged a private complaint on 24.08.2013 against the petitioner herein and six others for the offences under Sections 418, 420, 463, 468, and 471 r/w 34 IPC on the file of the III Additional Chief Metropolitan Magistrate, at Hyderabad. It is his case that A-1 is his elder brother with whom he had business partnership and also joint property. A-2 to A-7 are the witnesses to the forged agreement and A-6 and A-7 are the stamp vendors who have sold the stamp papers to the impersonated person. A-1 created a fictitious and forged document pertaining to a undivided share of 952.19 square feet equal to 40 square yards in a property situated in plot Nos.532, 533, 534 in Sy.Nos.11/14 to 11/18 situated at Sri Swamy Ayyapa Co-operative Housing Society Limited situated at Khanamet village, Serilingampally Municipality, Ranga Reddy District. A-1 got purchased the stamp papers vide

Sl.Nos.8977 & 8981 with active connivance of A-6 who is stamp vendor. A-1 created false agreement on the same stamp papers in respect of the property owned by the second respondent as stated above. In fact, it is the specific case of the second respondent that he purchased the property for Rs.18,50,000/- under a registered sale deed vide document No.9049/2010 in the capacity of a joint owner along with A-1 executed by P. Venkat Reddy and another. The petitioner herein being A-5 is an attestor on the said agreement. In fact, A-1 basing on the said forged agreement of sale, filed a suit O.S.No.557 of 2013 for specific performance of the agreement against the second respondent herein on the file of the District Judge, Ranga Reddy, at L.B. Nagar and the same is pending consideration. The said complaint was referred to S.R.Nagar Police Station under Section 156(3) Cr.P.C. After investigation, charge sheet is filed. The learned Magistrate, has taken the cognizance of the offences and numbered the same as C.C.No.981 of 2015. During the pendency of the said calendar case, the petitioner herein filed a petition under Section 239 Cr.P.C. to discharge him for the offences levelled against him vide Crl.M.P.No.3432 of 2017 on the file of the Court of the III Additional Chief Metropolitan Magistrate, Hyderabad. The first respondent-State filed a counter and contested the said petition. After hearing, the learned Magistrate was pleased to dismiss the petition by orders dated 20.04.2018. Aggrieved by the same, the present criminal revision case is filed.

The learned counsel appearing for the petitioner, contended that the petitioner herein is not a party to the said forged agreement of sale but the Court below dismissed the petition on mere presumptions. The Court below also failed to observe that the averments made by the petitioner against the respondents 2 and 3 have not been denied by them by filing a reply or a counter-affidavit and therefore, the charges framed against the petitioner is baseless. In fact, the Court below also failed to appreciate the report of the investigating agency in a proper perspective against the petitioner and without there being any material, arrived at a wrong conclusion and dismissed the petition on untenable grounds. Lastly, he contended that the Court below ought not to have come to a conclusion that the petitioner herein had the knowledge of the contents of the agreement of sale, its execution and attestation since he appeared as an attestor. In fact, it is the specific case of the petitioner that he simply signed on the agreement of sale but he does not know the contents of the same. The learned counsel for the petitioner also contended that in the event of this Court not accepting the contention of the petitioner, he requested to dispense with the presence of the petitioner during the pendency of the proceedings in the Court below.

Learned Public Prosecutor appearing for the first respondent-State opposed the case of the petitioner and contended that the petitioner himself admitted the fact of execution of agreement of sale and that itself is a sufficient ground to frame a charge. Further, the stand taken by the petitioner that he only signed the agreement of sale, and he does not know the contents of the document cannot be decided at this stage and it can be considered only during the course of trial as to whether the petitioner is an active facilitator for forgery of the document with common intention.

Having heard both the learned counsel and perusal of the material on record, revealed that the basic allegation levelled by the second respondent is that the agreement of sale dt.18.08.2012 is forged and a fabricated document created by impersonation on which the petitioner is one of the attestors. Coupled with the same, the specific stand of the petitioner herein is that he signed on the agreement of sale, but he does not know the contents of the document. It is difficult to understand when once the petitioner admits that he signed as an attestor on the document, that he does not know the contents of the same. Be that as it may, whether the petitioner is an active participant for creation of the above said agreement of sale or not, is to be decided only during the course of trial. That apart, even civil litigation is also pending between the parties. At this stage, what all has to be looked into at the stage of framing of the charge is whether any *prima facie* case is available to frame a charge and proceed further in the matter. That itself will not indicate that the evidence can be appreciated and come to a conclusion that the petitioner does not know the contents of the document. However, the material on record and the admission on behalf of the petitioner itself suffice to frame a charge and proceeded with the matter. Therefore, this Court is of the opinion that there are no merits in the revision and the same is liable to be dismissed.

Accordingly, the criminal revision case is dismissed. However, the presence of the petitioner in C.C.No.981 of 2015 on the file of the III Chief Metropolitan Magistrate, Hyderabad is dispensed with except on the dates whenever his personal attendance is required, such as, examination etc.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date:15.06.2018.
CCM

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1382 of 2018

Date:15.06.2018

ccm