

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.9674 of 2017

ORDER:

This petition is filed by the petitioner/accused under Section 482 Cr.P.C challenging the order dated 31.03.2017 in CrI.M.P.No.109 of 2017 in C.C.No.47 of 2016 on the file of Special Magistrate-cum-VI Additional Junior Civil Judge, Tirupati, whereunder the learned Judge dismissed the petition filed by the petitioner under Section 254 (2) Cr.P.C seeking permission to produce the certified copies of the two documents i.e, i) C.C of decree in O.S.No.455 of 2004 on the file of Principal Judge, Small Causes and Senior Civil Judge, Mysuru and ii) C.C of judgment in O.S.No.455 of 2004 on the file of Principal Judge, Small Causes and Senior Civil Judge, Mysuru.

2) Though notice to 2nd respondent/complainant was served but there is no representation on her behalf. Hence, heard learned counsel for petitioner.

3) Learned counsel for petitioner would submit that the cheque for Rs.5,00,000/- was issued by the petitioner/accused to 2nd respondent/complainant towards sale amount of the property sold by 2nd respondent. Before registration, the petitioner/accused came to know that the subject matter of the property originally belonged to Brahmatantra Swathantra Parakala Swamy Mutt, Mysore but not the 2nd respondent/complainant and the 2nd respondent cheated the

petitioner/accused posing the said property belonging to her. So in order to prove that the property belonged to the aforesaid mutt, the two documents are to be marked and unfortunately the Trial Court has not properly considered this aspect and dismissed the petition. Learned counsel would submit that unless the petitioner is permitted to produce those documents, he cannot establish his defence. He thus prayed to allow the petition.

4) A perusal of the impugned order would show that the Trial Court in Para 6 of its order held that the issuance of the cheque during the settlement of civil disputes before the Lok Adalat and its bouncing back were admitted facts and therefore, no purpose will be served in permitting the petitioner to produce the aforesaid documents.

5) In the light of submissions made by learned counsel for petitioner regarding the purpose for which he proposes to produce the documents, I am unable to accept the reason given by the Trial Court for the dismissal of the petition. The petitioner's case is that the property does not belong to the 2nd respondent/complainant and she cheated the petitioner and sold the property and obtained the cheque through the Lok Adalat settlement and thereafter he came to know that the property belonged to the mutt and for proving the said fact he has to necessarily produce the aforesaid documents. In view of the said settlement, this Court is of the considered view that petition shall be allowed.

6) Accordingly, this Criminal Petition is allowed by setting aside the order dated 31.03.2017 in CrI.M.P.No.109 of 2017 in C.C.No.47 of 2016 on the file of Special Magistrate-cum-VI Additional Junior Civil Judge, Tirupati. Consequently, the said CrI.M.P.No.109 of 2017 is allowed and the Trial Court is directed to permit the petitioner/accused to produce the aforesaid certified copies of the two documents and mark them as exhibits on his behalf.

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

Date: 04.04.2018

scs

U.DURGA PRASAD RAO, J

