

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.7532 OF 2013

ORDER:

The present Criminal Petition is filed, under Section 482 of the Code of Criminal Procedure, 1973, by the petitioner - accused No.2 seeking to quash the proceedings against him in Calendar Case No.1102 of 2011, pending on the file of the learned XI Additional Chief Metropolitan Magistrate, Secunderabad, registered for the offences punishable under Sections 120-B, 406, 420 and 506 IPC.

2. Heard Sri B. Vijayasen Reddy, learned counsel for the petitioner, learned Public Prosecutor for the State of Telangana, and Sri P. Vamsheedhar Reddy, learned counsel for respondent No.2.

3. The respondent No.2 herein filed a private complaint before the XI Additional Chief Metropolitan Magistrate, Secunderabad against accused No.1 - Monica Ram Chand and the petitioner herein, alleging that he entered into an oral agreement with accused No.1 for purchase of an open plot No.21, admeasuring 361 square yards in Sy.No.94 of Layout of Amar Jyothi Weaker Section Co.Op. Housing Society, located at Bowenpally village, Secunderabad, for a total sale consideration of Rs.19,00,000/-; that he paid a sum of Rs.5,00,000/- to accused No.1 as earnest money. Subsequently, since accused No.1 failed to execute and register a sale deed in favour of respondent No.2 herein, he filed a suit O.S.No.75 of 2008 on the file of the I Additional Chief Judge, City Civil Court, Secunderabad, for specific performance

of said agreement against accused No.1. In the said suit, accused No.1 filed her written statement stating that she sold away the said plot to the petitioner herein. Then, respondent No.2 herein impleaded the petitioner herein as a party to the said suit. Ultimately, the said suit ended in dismissal and a direction was given to return the earnest money to respondent No.2.

4. The learned counsel for the petitioner would submit that this Court, by order, dated 12.10.2012, in Crl.P. No.1192 of 2012, quashed the proceedings against accused No.1 in Calendar Case 1102 of 2011 and produced a copy of the said order.

5. Perused the copy of the aforesaid order and it shows that this Court by considering that merely because pending a civil suit for specific performance, the property was transferred by defendant No.1 in favour of third party, it cannot be said that the said act was with an intention to cheat the plaintiff. When such is the observation against accused No.1, who sold the property initially to respondent No.1 and later to the petitioner herein, and proceedings were quashed against him, no purpose would be served in continuing the proceedings against the petitioner herein, who is only a subsequent purchaser.

6. Considering the above circumstances, the present Criminal Petition is allowed, and the proceedings against the petitioner - accused No.2 in proceedings in Calendar Case No.1102 of 2011, pending on the file of the learned XI Additional Chief Metropolitan Magistrate,

Secunderabad, registered for the offences punishable under Sections 120-B, 406, 420 and 506 IPC, are hereby quashed. Consequently, the interim stay granted by this Court on 26.07.2013 stands vacated.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed.

SMT. T. RAJANI, J

October 08, 2018
Mgr

