

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL PETITION No.616 OF 2011

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C. to quash the proceedings in Crime No.471 of 2010 registered for the offences punishable under Sections 406 and 420 IPC of Malakpet Police Station, Hyderabad.

The brief facts of the private complaint filed by the 2nd respondent before the VII Additional Chief Metropolitan Magistrate, Hyderabad against the petitioner/A.1 are as follows: The complainant states in the complaint that the petitioner/A.1 and himself entered into an agreement of Flat No.14/101, an extent of area 876.11 square feet situated at Sahara States, Mansoorabad Village, Saroornagar Revenue Mandal, Ranga Reddy District on 26.02.2009, for a sale consideration of Rs.19 lakhs. He paid an earnest money of Rs.2,50,000/- and agreed to pay Rs.2,50,000/- on 13.03.2009 and agreed to pay the balance of Rs.14 lakhs on or before 31.03.2009. As per condition No.8, he failed to pay the amount within the stipulated time. The complainant has failed to pay the amount as stipulated in the agreement even after 15 months, therefore, the petitioner sold the property to another person for Rs.15 lakhs and executed a registered sale deed in his favour. However, the petitioner has paid an amount of Rs.1 lakh on 20.09.2010 to the de facto complainant towards final settlement of account of sale agreement for the purpose of cancellation of the sale transaction.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

Learned counsel for the petitioner submits that he has tried to serve notice to 2nd respondent for three times, but could not serve the same. He further submits that the notice sent through police also returned. Hence, this Court on 13.03.2018 ordered notice to the counsel for 2nd respondent before the trial Court as the 2nd respondent is evading to take notice. As per the said order, when the petitioner tried to serve notice to the counsel for 2nd respondent before the trial Court, he refused to take the same. However, learned counsel for the petitioner submits that instead of going into the merits of the case, a direction may be given to the police to investigate the matter by following procedure under Section 41-A of Cr.P.C.

Learned Public Prosecutor reported no objection for giving such a direction.

Under these circumstances, the Station House Officer concerned is directed to follow the provisions under Section 41-A of Cr.P.C. and abide by the directions issued by the Apex Court in *Arnesh Kumar v. State of Bihar and another*¹.

With the above direction, the Criminal Petition is disposed of. Interim order granted on 25.01.2011 shall stand vacated.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDI SEVA SHYAM PRASAD, J

Date : 20.03.2018
ssp

¹ 2014 (2) ALT (CrI.) 457 (SC)