

**HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.6538 OF 2017**

**ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code') by accused No.2 viz., G. Subba Raju, seeking to quash the proceedings against him in Crime No.588 of 2017 of L.B. Nagar Police Station, Rachakonda, registered for the offences punishable under Sections, 420, 406, 409, 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (for short 'PC Act') and also Section 82 of the Registration Act, 1908 (for short 'Act 1908').

2. Respondent No.1 herein is the *de facto* complainant - District Registrar, Ranga Reddy District. He lodged a typed report dated 30.05.2017 with the L.B. Nagar Police, it runs as follows:

*"i) On 24.07.2015, the Sub-Registrar Office, L.B. Nagar, Hyderabad East, registered three sale deeds bearing document Nos.15463 of 2015, 15464 of 2015 and 15844 of 2015 for an extent of 10,950 square yards of land situated at Doctors' Colony, L.B. Nagar, executed by M/s. South India Research Institute Private Limited, represented by Sri G. Subba Raju and M/s. Sama Constructions, in favour of one Sama Narasimha Reddy and his family members, V. Yadaiah and A. Buchibabu. The said land is located nearby National Highway. As per the existing market value guidelines, the Sub-Registrar has to collect stamp duty by on the market value of the land which is at Rs.35,000/- per square yard, but the petitioner shown the market value of the land at Rs.13,000/- per square yard, and thereby caused revenue loss to a tune of Rs.1.45 Crores to the Government.*

*ii) In another case, the Sub-Registrar has registered a General Power of Attorney document bearing Nos.159/BK-IV/16 and 160/BK-IV/16 in the year 2016 for 24,200 square yards at Karmanghat village in Survey Nos.214 to 217 executed*

*by one Mohd. Nizamuddin Khan in favour of Mohd. Afzal by collecting less stamp duty and registration fee, and thereby caused revenue loss to a tune of Rs.40.00 lakhs to the Government.*

*iii) Similarly, the Sub-Registrar has registered a total 29 documents in the year 2016 for Flats/Villas or Group Housing of Developers/Builders in favour of various Vendees vide documents bearing Nos.20, 27, 101, 107, 140, 167, 318, 322, 327, 328, 493, 547, 611 694, 717, 718, 776 to 778, 1015, 1229, 1383, 1384, 1423, 1554, 1559, 1776, 1800 and 1822, but failed to collect Value Added Tax (VAT) in respect of the flats, and thereby caused revenue loss of Rs.46.86 lakhs to the Government.*

*iv) In another case, the Sub-Registrar registered a rectification deed for 3,055 square yards in Survey No.306 at Nadergul village of the then Saroornagar Mandal, Ranga Reddy District vide document No.21/BK-IV/2016 in favour of GPA Holders viz., Sri Dhathrika Chandra Prakash and others, but failed to compute correct stamp duty, and thereby caused revenue loss of Rs.3.00 lakhs to the Government”;*

and requested to take necessary action against Sri T.V. Ramesh Chandra Reddy, Sub-Registrar, L.B. Nagar, and other parties to the documents bearing Nos.15463 of 2015, 15464 of 2015 and 15844 of 2015.

3. On the basis of the report, the police registered a case in Crime No.588 of 2017 for the offences punishable under Sections, 420, 406, 409, 120-B of IPC and Section 13 (1) (d) read with Section 13 (2) of the PC Act and also Section 82 of the Act 1908.

4. (a) The present Criminal Petition is filed by the petitioner, who is arraigned as accused No.2 in the aforesaid crime, to quash the proceedings against him in the said crime on the ground that for any reason, if the Registrar undervalued a document, remedy available to the department is to collect deficit stamp duty by resorting to Section 47A

of the Indian Stamp Act, 1899 (for short 'Stamp Act), instead of resorting to the said remedy, respondent No.1 - *de facto* complainant lodged the aforesaid report with the police and, therefore, it amounts to abuse of process of law.

(b) Another ground agitated by the petitioner is that he is only a Vendor, not responsible for payment of stamp duty and penalty, and therefore, the question of prosecuting him for the aforesaid offences does not arise.

(c) Further ground raised by the petitioner is that the property is located nearby National High-way, which is valued at Rs.35,000/- per square yard, but the petitioner valued the market value at Rs.13,000/- per square yard, and thereby caused the alleged revenue loss to the Government is neither based on any material nor any evidence, but on presumptions. Hence, the Court cannot permit the Investigating Officer to proceed further to investigate into the aforesaid offences as it amounts to abuse of process of Court and, thus requested to quash the proceedings against the petitioner for the aforesaid offences.

5. During the course of hearing, the learned counsel for the petitioner mainly contended that registration value of the property adjacent to the National Highway is Rs.35,000/- per square yard, but not the property situated away to the National Highway, and that valuation can be reviewed by the Sub-Registrar exercising power under Section 47A of the Stamp Act and, therefore, the allegations are civil in nature,

as such, the civil dispute is given flavour of criminal wrong, investigating into such allegations by police in an abuse of process of Law, in support of his contention, placed reliance on the decision of the Hon'ble Supreme Court in **Rajib Ranjan v. R. Vijaykumar**<sup>1</sup>

(i) Learned counsel also contended that remedy available to the Government is to resort to the provisions of Section 47A of the Stamp Act, but not to launch prosecution against the petitioner, who is a Vendor, and in support of the same, he placed reliance on the decisions rendered by a Division Bench of Madras High Court in **S.P. Padmavathi, v. State of Tamil Nadu**<sup>2</sup>, the judgment of Apex Court in **Residents Welfare Association, Noida v. State of Uttar Pradesh**<sup>3</sup>, and a Division Bench of this Court in **State of Andhra Pradesh v. Sagar Cements Limited**<sup>4</sup>. On the basis of the principles enunciated in the aforesaid decisions, the learned counsel for the petitioner requested to quash the proceedings, and more particularly, during hearing today, the learned counsel, Sri B. Nalini Kumar, contended that in view of the bar under Section 17 of the PC Act, the Inspector of Police is not competent to investigate into the crime unless he is authorized as per the provisions of PC Act and, on this ground also, the proceedings against the petitioner are liable to be quashed.

ii) Whereas, the learned Special Public Prosecutor appearing for ACB, State of Telangana, contended that the Inspector of Police, Law

---

<sup>1</sup>. (2015) 1 SCC 513

<sup>2</sup>. AIR 1997 Madras 296

<sup>3</sup>. (2009) 14 SCC 716

<sup>4</sup>. 2002 (4) ALD 136 (DB)

and Order, is competent to investigate into the offences as per the Order issued by the Government, and that apart the investigation is not yet commenced as on date. Therefore, at this stage, the petitioner is not entitled to seek quashing of proceedings. He also contended that the Vendor and the Vendees colluded with Sub-Registrar and caused revenue loss to the Government and, therefore, the Vendor and the Vendees are also liable for prosecution for the aforesaid offences and, finally, requested to dismiss the present Criminal Petition.

6. The first and foremost contention raised by the learned counsel for the petitioner is that the dispute is with regard to under valuation of the property based on its location. The learned counsel for the petitioner produced the sale deeds conveying property and also the certificates issued by the Sub-Registrar with regard to valuation of the property to contend that the property is valued as per the Basic Valuation register at the rate of Rs.13,000/- per square yard in Survey No.9/4, situated at Doctors Colony, Saroornagar, whereas as per another valuation certificate, dated 30.10.2017, value of the land in Survey No.9/4, situated near to National Highway IX, opposite NTR Nagar, Saroornagar village is at Rs.35,000/- per square yard. Thus, the land in Survey No.9/4 of Saroornagar village is valued at two different rates of Rs.13,000/- and Rs.35,000/- per square yard as per the Basic Value Register maintained in the Sub-Registrar's Office. According to the contention of the petitioner, the property sold under the documents is for residential purpose and market value of the said residential plot(s) is

fixed at Rs.13,000/- per square yard by the Sub-Registrar, as such, the question of undervaluation and causing revenue loss to the Government does not arise. If the certificates issued by the Sub Registrar are accepted as it is, the land in the same survey number is valued at different rates, moreover, purpose of sale is for residential. Whereas, on the report of the Board of Revenue, an extent of Acs.22.09 guntas of land in Survey No.9/4 (old No.9/1) of Saroornagar Village and Mandal, and an extent of Acs.14.51 guntas in Survey No.49/13 of Bahadurguda village, Ranga Reddy District, were handed over to M/s. South India Research Institute Private Limited (SIRIS) as per G.O. Ms.No.1213 of Revenue Department, dated 09.08.1965, requesting the Collector to submit regular proposal through the Board of Revenue for fixing the market value of the aforesaid land and other taxes leviable under the Law. In pursuance of the same, the aforesaid extents of the land were assigned to M/s. SIRIS as per the Memorandum No.5442-Q2/1965 of Revenue (Q) Department, dated 02.03.1966, fixing the market rate of Rs.3,000/- per acre. Thus, the land allotted to M/s. SIRIS was not for residential purpose and the land was valued at Rs.3,000/- per acre as per the aforesaid Memo. Therefore, the purpose of allotment was other than residential purpose, and when the land was allotted not as a residential, it can be valued as other than industrial or commercial, *prima facie*. Therefore, the value of land for residential fixing the same at Rs.13,000/- per square yard based on the Basic Value Registration maintained in the office is a clear violation of the guidelines for the fixation of Market Value, *prima facie*.

i) The other contention raised by the learned counsel for the petitioner is that the dispute is purely civil in nature and at best, remedy open to the authorities under the Stamp Act is to review the value and collect the stamp duty resorting to the procedure under Section 47A of Stamp Act as amended by the A.P. Act, and not by filing any criminal complaint against the petitioner and others. No doubt, Section 47A of the Stamp Act, as amended by the A.P. Act, *prima facie*, deals with re-assessment of the land value and collection of deficit stamp duty after valuing the property. But, in the present case, the contention of the prosecution is that, the petitioner and other purchasers including the Sub-Registrar intentionally undervalued the land in question and collected stamp duty less than the basic value fixed, and thereby caused substantial revenue loss (in Crores) to the Government which is an offence punishable under Section 13 (1) (d) read with 13 (2) of the PC Act, *prima facie*, and though remedy under the Stamp Act is available. When such revenue loss is caused to the Government by the Sub-Registrar, he is liable to be prosecuted for the said offence and, thus, the petitioner being one of the alleged conspirators is also liable to be prosecuted in view of the provisions under the PC Act and it is not giving a colour of criminal offence for the civil wrong at this stage. The Hon'ble Supreme Court in **Sanapareddy Maheedhar Seshagiri v. State Of Andhra Pradesh**<sup>5</sup>, held that the High Court should be extremely cautious in interfering with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution

---

<sup>5</sup>. (2007) 13 SCC 165

except when it is convinced beyond any manner of doubt that the First Information Report (FIR) does not disclose commission of any offence or that the allegations contained in the FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court, and that in dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest, and that the people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished, and that therefore, while deciding a petition filed for quashing the FIR or complaint or restraining the competent authority from investigating the allegations contained in the FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. In view of this principle laid down in the above decision, the Court, in general, cannot quash the proceedings unless concludes that the allegations made in the FIR do not constitute an offence in a crime. Similarly, the Hon'ble Supreme Court in **Kurukshetra University v. State of Haryana**<sup>6</sup> and in **State of Orissa v. Saroj Kumar Sahoo**<sup>7</sup>, laid down the principle that High Courts normally will not interfere with the investigation to stifle legitimate prosecution when the facts are incomplete before the Court and no evidence is collected in

---

<sup>6</sup>. (1977) 4 SCC 451

<sup>7</sup> (2005)13 SCC 540 : 2006(2) ALT (CrI.) 16

deciding such an application. If these principles are applied to the present case, at this stage, it is difficult to decide whether the petitioner committed any offence referred supra, and at the same time, this Court cannot exercise such power when the allegations made in the FIR, if accepted on its face, accepted as true and constitute the offences punishable under the aforesaid provisions, *prima facie*.

7. The learned counsel for the petitioner placed reliance on the decision in **Rajib Ranjan**<sup>1</sup>. The Apex Court while placing reliance on the decision in **State of Haryana v. Bhajanlal**<sup>8</sup>, extracted the seven guidelines laid down by the Hon'ble Apex Court in paragraph No.23, and basing on the facts and circumstances of the case, the Apex Court observed in paragraph No.24 that "while on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged." Even, according to guideline No.6 in **Bhajanlal**<sup>8</sup>, "where

---

<sup>8</sup>. 1992 Supp (1) SCC 335

there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party”, the Court can exercise power under Section 482 of the Code and quash the proceedings. But, in the case on hand, though there is a efficacious remedy available is, for collection of revenue loss on account of under valuation of the property, but as contended by the prosecution, the Sub-Registrar and the purchasers, who conspired together and undervalued the property, are liable to be prosecuted for various offences referred supra, and sometimes the allegations made in the complaint may constitute, both civil and criminal wrong, but merely because of an alternate remedy is available, the offences committed by the accused cannot be condoned since the remedy available in civil is only to recover the amount of loss, if any, caused, whereas in criminal, offender will be punished in accordance with law, that too, in some cases where accused *prima facie* are guilty of economic offences, this Court cannot exercise power under Section 482 of the Code. When the Sub-Registrar, Vendor, who is petitioner herein, along with other accused, conspired together *prima facie* and caused revenue loss to the Government, proceedings against him cannot be quashed liberally by exercising power under Section 482 of the Code.

8. Though the decisions relied on by the learned counsel for the petitioner in **Residents Welfare Association**<sup>3</sup>, **S.P. Padmavathi**<sup>2</sup> and **Sagar Cements Limited**<sup>4</sup>, permitting Registration Authorities to collect the amount of loss caused, it will not enable the authorities concerned to punish the persons who committed the offence. Therefore, merely because of an alternate remedy is available and in the absence of any bar to proceed against this petitioner for the offences referred supra, the Court cannot quash the proceedings by exercising the inherent power under Section 482 of the Code at the stage of FIR / Crime.

9. Finally, the learned counsel for the petitioner contended that the Inspector of Police, Law and Order is incompetent to investigate into the offence in view of the bar under Section 17 of the PC Act. In fact, as per the material on record, investigation is not yet commenced and it is only at the crime stage. When the proceedings are at crime stage, incompetency of the Inspector of Police, Law and Order to investigate into, cannot be decided. However, the learned Special Public Prosecutor would contend that the Inspector of Police is competent, but I am not going to decide the said issue since proceedings are at the stage of crime, and it is for the investigating agency to take care to appoint a competent Investigating Officer to investigate into the offences. Therefore, at this stage, based on this contention, the proceedings cannot be quashed.

10. In view of my foregoing discussion, I find no ground to quash the proceedings against the petitioner at this stage, as such, the

Criminal Petition is liable to be dismissed, and is accordingly, dismissed. The observations, if any, made herein, will have no bearing in deciding any application in future in the same crime.

Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand dismissed.

---

**JUSTICE M. SATYANARAYANA MURTHY**

September 04, 2018  
Mgr

