SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.13340 of 2013

ORDER:

The criminal petition is filed for quash of the proceedings in CC.No.126 of 2013 on the file of the IX Metropolitan Magistrate, Secunderabad.

2. Heard the counsel for the petitioner and the learned Public Prosecutor appearing for respondent Nos.1 and 2. None appears for the third respondent in spite of notice.

3. A perusal of the complaint, at the outset, would be beneficial, in order to understand whether the allegations made therein, on the face of it, would constitute the offences alleged against the petitioner. The case was registered based on a private complaint. The averments in the complaint, would on the first reading, itself lead to a conclusion that it is purely a civil dispute between the parties. The grievance of the complainant is that she intended to purchase a flat and entered into an agreement with A1. In pursuance of the said agreement, she paid a consideration of Rs.1 lakh and further she paid another Rs.1 lakh in the month of March 1993 and receipt was passed on by A1. Another sum of Rs.1 lakh was also paid on 09.10.1993. A1 made the complainant to sign two agreements with respect to receipt of the said amount. Even after receiving the said sale consideration, the accused played fraud on the complainant and received excess amount of Rs.10,000/- but he did not register the flat in the name of the complainant. Since the accused made the complainant believe that he is going to register the said flat, she did not file any suit for specific performance. Instead of registering the said flat in her name, the

accused filed a suit in O.S.No.267of 1996 on the file of the XII Additional Senior Civil Judge, Secunderabad, for eviction, against the complainant. The Court also did not consider the *modus operandi* of the two agreements and the matter was carried to this Court in CCCA.No.181 of 2006 and status quo was ordered, against which an appeal was preferred by the complainant. A1, having knowledge about status quo, still contemplated to sell the said flat to A2/petitioner herein. In order to cause wrongful loss to the complainant, A1 sold the said flat to A2, in connivance with her. The complainant demanded the accused to return the cheque and requested her husband to collect the cheque. The complainant's husband and her daughter went to take the cheque but the accused instead of returning the cheque, abused him.

4. The aforesaid averments would show that it was a long drawn litigation between the parties and that the matter came up to this Court also earlier. Hence, in the light of the said fact and the aforesaid allegations, it can be gathered that there was no element of cheating in the acts of the accused since inception, which alone can attract the offence under Section 420 IPC. Hence, this Court opines that continuation of further proceedings would only result in abuse of process of law.

The criminal petition is allowed and the proceedings in CC.No.126 of 2013 on the file of the IX Metropolitan Magistrate, Secunderabad, against the petitioner, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

T. RAJANI, J

January 2, 2018/DSK