

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11115 OF 2018

ORDER:

The petitioner is A6 among six or more accused of Crime No.284 of 2018 on the file of Alipiri Police Station, Tirupathi Urban, registered for the offences punishable under Sections 420 and 506 r/w 34 IPC, on the report of the 2nd respondent/ de facto complainant. It is in seeking to quash the said FIR insofar as the petitioner concerned this application is filed invoking Section 482 Cr.P.C.

2. The contentions are that none of the ingredients of the offence punishable under Section 420 or 506 IPC that attract against all the accused, in particular, so far as the petitioner/ A6, he is otherwise a victim and continuation of the crime proceedings are nothing but abuse of process and also outcome of suppression of material facts and complainant himself filed a suit for injunction in O.S.No.398 of 2010 on the file of the Additional District Judge, Tirupati, and the suit subsequently ended in dismissal for default and application for restoration filed and C.R.P.No.398 of 2018 filed before the High Court against the order in I.A.No.32 of 2016 dated 08.12.2017 and it is communicated by notice to all the accused by the de facto complainant way back on 20.04.2018 that is long prior to the present report given to police on 06.09.2018 by no way mentioned in the report about

pendency of the suit or dismissal of the suit and filing of application to restore and filing of revision against dismissal of the application and thereby sought for quashing.

3. The notice sent to 2nd respondent returned as continuously absent is a sufficient service, hence taken as heard to decide on merits. Heard the learned counsel for the petitioners and learned Public Prosecutor representing the State in opposing the petition saying a reading of the FIR prima facie when constitute the offences punishable under Sections 420 and 506 IPC, there is nothing to quash FIR but for to allow police to investigate the crime and file final report from the investigation by left open any grievances of the petitioner after filing of final report and sought for dismissal there from. Perused the material on record.

4. The sum and substance of the accusation from the report of the de facto complainant is that he purchased under registered sale deed No.527/ 2002 dated 12.04.2002 to an extent of Ac.0.75 cents in Sy.No.342 for a consideration of Rs.2,25,000/- from Vasanthamma W/o Natarajan of Balakrishnapuram of Tirupati Mandalam and at that time one Armugam and Murali S/o Vasanthamma were also stood as attestors to the sale transaction with knowledge and since then the de facto complainant is in possession and enjoyment of the property. Subsequently, he settled in his business

avocation in Chennai. In the recent past, when he thought of selling the property to one Chandra Reddy and Chandrasekhar of Kadapa District, it came to know that the petitioner M.Ravishankar Reddy(A6) obtained registered sale deed No.666/ 2010 dated 10.02.2010 through said Vasanthamma and her sons represented by her G.P.A. holder K.Shanmuga Reddy covered by registered GPA No.1994/ 2008 dated 26.03.2008 and when he questioned having come to know of such registration through said GPA, Shanmuga Reddy, Ravishankar Reddy etc. they did not respond and deliberately deceived him. In this regard, he raised several disputes through elders Tirumala Reddy and Vineet and asked Shanmuga Reddy and Ravishankar Reddy to cancel the GPA and sale deed as he purchased in 2002 for which they put a condition to part with half of the property. It is, in this context mentioned that otherwise do what he can and that is the alleged threat to register the crime for the offence punishable under Section 506 IPC. Even, there is nothing to show any alarm in the mind of the victim to attract within the meaning of Section 503 IPC. It is further added that said Vasanthamma and her sons Bhaskar, Murali, Ramesh having sold the property to him deceived him and Shanmuga Reddy and Ravishankar Reddy, even knowingly, subsequently purchased the property and deceived him. In fact, as per the sale deed from the very

averments of the complaint, the petitioner/ A6 is the purchaser at best a victim in the absence of any averment in the FIR of it is a nominal or fraudulent sale deed to deceive. Once such is the case, there is no offence under Section 420 IPC that attracts. Law is fairly settled from the expression of the Apex Court in Ibrahim v. State of Bihar¹. Leave about the fact that the dispute is predominantly civil in nature and covered by civil suit in O.S.No.63 of 2010.

5. Having regard to the above, the Criminal Petition is allowed quashing the proceedings against the petitioner/ A6 in Crime No.284 of 2018 on the file of Alipiri Police Station, Tirupathi Urban.

6. Miscellaneous petitions pending if any, shall stand closed.

Date:04.12.2018
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Dr. B. SIVA SANKARA RAO, J

¹ 2009(8) SCC 751