

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12021 of 2018

ORDER:

The petitioner is the accused in crime No.241 of 2018 of Dargamitta Police Station, SPSR Nellore District, registered for the offences punishable under Sections 420 & 506 IPC.

No doubt basically there are no ingredients to attract the offence under Section 506 IPC of any criminal intimidation with intent to create alarm much less anything to felt of alarm from the report in registration of the crime, but for to the alleged offence of cheating if any. From perusal of the report of the defacto complainant in registration of the crime as to any ingredients for the offence under Section 420 IPC, the report says Ac.5.76 cents of land at Chandrasekharapuram Village, Kodavaluru Mandal originally belongs to Vayugundla Surendra Kumar and Lakshmi Kumari. Under contract for sale the defacto complaint agreed to purchase and consequently he in turn agreed to sale to the accused person for Rs.1.65 crores and he obtained agreement of sale in May 2017 and having paid some advance and obtained agreement before obtaining sale deed within the time fixed of 2 months entered agreement for sale by said Veeri Chalapathi Rao prospective vendee from defacto complainant, to SK. Karimullah. It is at their request the defacto complainant arranged direct sale deed on 13.07.2017 by VV Surendra Kumar and Lakshmi Kumari to Karimullah in the

name of the entity of the Karimullah from perusal of the sale deed as Trans Infra and Logistics Private Limited of Chennai. What is further averred is having played deception in obtaining the sale deed in favour of Karimullah supra by agreed to pay balance amount retained by return of the link document even ready to return link documents refusing to receive the link documents and refusing to pay balance due even after adjustment of the so called road widening extent of Rs.19 lakhs. So far as that allegation concerned of executing registered sale deed by retaining balance of the amount and not paying the amount retained concerned, there is offence of cheating in inducing to register with intent to deceive. That is sum and substance from the report in registration of the crime. However it is one of the contentions in the quash petition that the petitioner cause issued notice on 11.12.2017 to the defacto complainant 10 months prior to his police report dated 10.09.2018, on 11.12.2017 that having entered the agreement for sale for Rs.1.65 crores and received part payment and failed to execute sale deed and instead of registering sale deed in his favour played fraud by sold the property to M/s. Trans Infra and Logistics Private Limited of Karimullah and thereby cheated and also abused touching the caste mala. If such is the case, there is nothing to quash the FIR, but for said notice contents true or otherwise of the accused dated 11.12.2017, regarding the alleged cheating by defacto complainant of the accused in registering sale deed in

favour of M/s. Trans Infra and Logistics Private Limited also requires investigation. Remedy is left open to the petitioner to submit to the police said notice and other material to consider as part of investigation of the present crime.

With these observations, this Criminal Petition is partly allowed by quashing the offence under Section 506 IPC concerned by retaining the offence under Section 420 IPC and for the offence under Section 420 IPC is not punishable above 7 years, the police strictly follow Section 41A Cr.P.C. and also the guidelines of the Apex Court in **Arnesh Kumar v. State of Bihar**¹ and for the notice under Section 41-A Cr.P.C. being issued by police, the petitioner is at liberty to give that notice issued by him dated 11.12.2017 as part of his defence to investigate by police.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 11.12.2018
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¹ (2014 (2) ALT (CrI.) 457 SC)