

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12322 OF 2018

ORDER:

The petitioner, by name, Atluri Narayana Rao is A2 among two accused of crime No.139 of 2018 dated 13.08.2018 registered by C.C.S Hyderabad, for the offences punishable under Sections 420, 465, 468, 471 r/w 34 IPC, on the report of the 2nd respondent/de facto complainant/Syed Mahmood Hussain.

2. The gist of the FIR in registering the crime indicates that the de facto complainant is no other than Managing Director of M/s.SMH Holdings Pvt. Limited, dealing in real estate business and when intending to purchase lands for that purpose, the petitioner/ A2 approached him and induced that he is the Agreement of Sale-cum-General Power of Attorney that was executed in his favour by one N.Ramcharyulu in respect of the land in Sy.No.55 to 63 of Ac.3.00 guntas situated at Tarangar Village, Serilingampally Mandal, Ranga Reddy District and also shown copy of the Agreement of Sale-cum-General Power of Attorney and thereafter, again A2 approached along with said N.Ramcharyulu and both of them also induced by pretending N.Ramcharyulu is owner of the property in their offering to sell the land by furnishing documents and believing their version, he agreed to purchase. He paid to them Rs.1,65,12,500/- by demand drafts in the

name of petitioner/ A2 and N.Ramcharyulu/ A1 and after receipt of the amount, petitioner/ A2 executed a receipt by saying that they will execute registered sale deed in their favour within 10 days. Later, he visited the property along with staff and came to know from some of the company officials visited the property and informed that it belongs to the Endowments Department and said N.Ramcharyulu has nothing to do with the property and when he made enquires, came to know of they played fraud by collusion and induced him for false assurance as if N.Ramcharyulu is owner in offering to sell land and in making belief in entering into the agreement, thereby, they committed the offences of fraud, cheating and breach of trust. Hence, to take action. It is there from crime is registered.

3. Heard the learned counsel for the petitioner, learned Public Prosecutor representing the 1st respondent/ State and the learned counsel for the 2nd respondent/de facto complainant.

4. One of the submissions, particularly, by the learned counsel for the petitioner is that if at all original record called for, the truth will be revealed that it is a false case and N.Ramcharyulu got title over the property. It is also the submission by filing copy of the order in W.P.No.24845 of 2003 filed by said N.Ramcharyulu against the Commissioner and

Deputy Commissioner of Endowments, Hyderabad, where he claims agricultural land in land in Sy.Nos.55 to 63 of Ac.10.00 cents situated at Tarangar Village, Serilingampally Mandal, Ranga Reddy District, was granted to the forefathers of him under munthakab and when the Board of Trustees of Venugopala Swamy temple, Taranagar claimed property, he preferred application under Section 87 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') before the Deputy Commissioner in O.A.No.85 of 1996 was disposed of by order dated 09.12.1996 holding that the entries made in the endowments register should be deleted and when the same went for confirmation to the Commissioner, the Commisisoner/ 1st respondent to the writ petition, by the impugned order dated 14.10.2003, remitted the matter to the Deputy Commissioner/ 2nd respondent for denova enquiry. This Court, referring to one unreported decision in W.P.No.17872 dated 05.11.2003 set aside said order of the Commissioner/ 1st respondent to the writ petition and remitted back to the 1st respondent for passing appropriate orders.

5. The face value of the allegations in the FIR are criteria in attracting the offence or not particularly in quashing FIR. It is not as a matter of course for mere asking to quash the FIR in exercising of the inherent power. Thereby, there is nothing

to quash FIR, but for giving liberty to the petitioner to submit said material to police to consider as part of investigation material to the extent relevant while filing final report.

6. Accordingly, the criminal petition is dismissed by giving liberty to the petitioner to file any such material to show their innocence to the investigating officer to consider as part of investigation in filing final report. After police final report if at all further aggrieved remedies left open. As none of the offences are punishable above seven years, the police have to follow Section 41-A Cr.P.C. and the guidelines of the Apex Court as laid down in Arnesh Kumar v. State of Bihar¹.

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

Date: 22.11.2018
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Dr. B. SIVA SANKARA RAO, J

¹ (2014 (2) ALT (CrI.) 457 SC)