

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11264 OF 2017

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioner-accused seeking to quash proceedings in crime No.257 of 2017 of Abids Road police station, Hyderabad registered for the offences punishable under Sections 354A, 509 and 506 IPC.

2. Heard both sides and perused the record.

3. Learned counsel for the petitioner would submit that mother of respondent No.2-defacto complainant and her son received huge loan from the petitioner-accused and his wife and thereafter did not repay the same; that there are several documents to show the same; that when criminal cases were filed against mother and brother of respondent No.2-defacto complainant for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 by petitioner-accused and his wife separately, as a counterblast, a false report was got lodged through respondent No.2-defacto complainant by her mother and brother; that there are previous civil and criminal disputes between the parties to the litigation; that the flat in which respondent No.2-defacto complainant is said to have entered on 25.10.2017, does not belong to her and hence, the question of respondent No.2-defacto complainant going to the said house for the purpose of asking for rent does not arise; that the mother and brother of respondent No.2-defacto complainant are also enjoined from entering into the said premises by the competent civil court; that the allegations in the report dated 03.11.2017 do not *prima facie* attract the offences alleged against the

petitioner-accused, and continuation of the impugned proceedings is nothing but abuse of process of court, and ultimately, prayed to quash the same.

4. On the other hand, learned Assistant Public Prosecutor opposed the grant of relief sought in the Criminal Petition.

5. Learned counsel for respondent No.2-defacto complainant contends that the allegations in the report lodged with police make out *prima facie* case for the offences alleged and hence, there are no grounds to quash the impugned proceedings.

6. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in crime No.257 of 2017 of Abid Road police station, Hyderabad are liable to be quashed ?

7. The material on record reveals that petitioner-accused and his wife are lessees of one G.Uma Maheshwari, w/o. late G.Narahari, who is mother of respondent No.2-defacto complainant, in respect of third floor of Laxmi Estates Building situated beside Rama Krishna Theatre, M.J. Road, Abids, Hyderabad under registered lease deeds. The lease was being extended from time to time. The petitioner-accused and his wife are paying rents regularly. There is also record to show that when the amenities were withdrawn to the flat, petitioner-accused and his wife filed Original Suit No.821 of 2014 on the file of the I Senior Civil Judge, City Civil Court, Hyderabad, and as per order dated 20.06.2014 in I.A. No.613 of 2014, obtained interim injunction restraining the landlady from interfering with the peaceful possession and

enjoyment of the petitioner-accused and his wife from the said property without due process of law, and as per order dated 20.06.2014 in I.A. No.612 of 2014, a direction was given to the landlady, the Laxmi Estate Welfare Association and another to restore the amenities such as lift facility, water, electricity for common lighting and drainage facilities to them. There is also record to show that the petitioner-accused and his wife got issued two legal notices dated 31.03.2015 to the landlady and her son stating that they availed hand loan from the petitioner-accused and his wife to meet their family necessities and failed to repay the same with interest, and hence, the amount due under the hand loan would be adjusted towards the monthly rent payable for the leasehold premises, and that no reply was given thereto by the landlady and her son. There is also record to show that the said landlady issued a cheque for Rs.20,07,672/- dated 09.03.2015 in favour of petitioner-accused to discharge the hand loan borrowed by her and another cheque for Rs.4,40,475/- to discharge the hand loan availed by her son G.Naga Viswanath from wife of petitioner-accused Smt. Sulochanamma, and as the said cheques were dishonoured for insufficiency of funds, after service of statutory notices, criminal cases viz. C.C. No.260 of 2015 on the file of the XII Special Magistrate, Hyderabad and C.C. No.79 of 2015 on the file of the VII Special Magistrate, Hyderabad were filed for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 by the petitioner-accused and his wife, and the former case ended in conviction and the latter one is pending.

8. There is also record to show that after service of the statutory notices in connection with dishonour of above cheques and after the petitioner-accused and his wife

obtained interim injunction from the civil Court, a private complaint was lodged by the landlady before the II Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, who referred it for investigation and report to police, who, basing on the same, registered a case in crime No.132 of 2015 for the offences punishable under Sections 406, 420 and 506 IPC against the petitioner-accused and his wife, and filed charge sheet therein for the offences punishable under Sections 420, 406 and 506 IPC and the said case is pending.

9. There is also record to show that to a notice dated 18.01.2017 got issued by son of the landlady and others to vacate the let out premises on the ground that it had fallen to their share, the petitioner-accused got issued reply dated 19.02.2017 to send copy of partition deed to take further steps in terms of the partition deed and also to recognize the new owner of the let out premises as per the deed, but, no such documents were furnished to the petitioner-accused.

10. In the aforesaid back ground, the present report came to be lodged by the daughter of the landlady viz. respondent No.2, on 03.11.2017 alleging that on 25.10.2017 at about 12.00 noon, when she went to Flat No.34C, H.No.3-6-67/66, B.N. Reddy Complex, Basheerbagh, Hyderabad, which she got as her share in her father's property and in which the petitioner-accused has been residing, to ask for rent as the tenant was not paying rent for the last 4 years, the petitioner, instead of paying the rent, misbehaved with her and abused her in filthy language using abusive words and pushed her out by threatening to kill her if she comes again.

11. Admittedly, competent civil court granted interim injunction restraining the landlady Smt.G.Uma Maheswari, her agents or any person claiming through or on behalf of her from interfering with the peaceful possession and enjoyment of the petitioner-accused and his wife over the let out premises, and the same is subsisting. Respondent No.2-defacto complainant is said to be her daughter and claiming the premises in question as having fallen to her share. Even though the petitioner-accused got issued reply dated 19.02.2017 to the notice got issued by son of the landlady and others, to furnish copies of partition deed, etc., no documents have been furnished to him. Under the circumstances, *prima facie*, respondent No.2-defacto complainant cannot be held to be landlady of the let out premises. Therefore, the question of her going to the premises to demand rent does not arise. In view of the previous civil and criminal cases pending between the mother and brother of respondent No.2-defacto complainant in respect of the let out premises, there is every possibility of lodging a false report and the same cannot be ruled out. In the circumstances of the case, it cannot be ruled out that this case is foisted as a counterblast to the civil as well as criminal cases filed by the petitioner-accused and his wife. If this kind of accusation is allowed, there is possibility of harassing innocent persons. Continuation of the impugned proceedings would cause mental and physical torture. It also causes immense loss to reputation of the petitioner. As such, continuation of the impugned proceedings is nothing but abuse of process of Court.

12. In the result, the Criminal Petition is allowed. The proceedings in crime No.257 of 2017 of Abids Road police station, Hyderabad are quashed.

Consequently, miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: .2.2018
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