**THE HON'BLE DR JUSTICE SHAMEEM AKTHER**

CRIMINAL PETITION NO.11100 OF 2017

**ORDER:**

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner-A2 to quash the proceedings in C.C.No.967 of 2017 on the file of the XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, registered for the offences punishable under Sections 420 and 506 read with Section 34 of the Indian Penal Code.

Heard the learned counsel for the petitioner-A2, learned Assistant Public Prosecutor representing the second respondent-State and perused the record.

Learned counsel for the petitioner-A2 would submit that A-1, who is the father of the petitioner-A2, is the owner of the house property bearing H.No.3-121/88/1, situated at Uppal Hills, Uppal Bagayath (V), Uppal (M),Ranga Reddy District and his father alleged to have entered into an agreement of sale with the first respondent-*de facto* complainant. The petitioner-A2 is only a student. He has nothing to do with the alleged sale transaction between his father and the *de facto* complainant. The dispute between the parties to the litigation is civil in nature. Unnecessarily, criminal proceeding is instituted. There is nothing wrong on the part of the petitioner-A2 and he has nothing to do with the alleged sale agreement dated 20.09.2014 and ultimately, prayed to quash the proceedings against the petitioner-A2.

Learned Assistant Public Prosecutor would submit that the petitioner-A2 is also instrumental in receiving the money and responsible for the allegations made. There are no grounds to quash the proceedings against the petitioner-A2.

In view of the submissions made on both sides, the point for determination is whether the proceedings in C.C.No.967 of 2017 are liable to be quashed.

As per the material placed before this Court, A-1 is the owner of the house bearing H.No.3-121/88/1 situated at Uppal Hills, Uppal Bagayath (V), Uppal (M),Ranga Reddy District. The *de facto* complainant was willing to purchase the said house. On 20.09.2014, the *de facto* complainant paid an amount of Rs.5,00,000/- to the petitioner-A2 and his father, A-1 in this case, towards part of sale consideration of the said house. The total sale consideration of the house was agreed to be Rs.36,00,000/-. It is also alleged that the house property was intended to be sold was to meet the necessities of the petitioner-A2 and his father-A1. Thereafter, the *de facto* complainant came to know that A-1 had already mortgaged the said house to M/s. Repco Homes Finance Ltd. When the *de facto* complainant requested to return the advance amount, it was not returned. Accused No.1 said to have threatened the *de facto* complainant with dire consequences. It is alleged in that regard that the petitioner-A2, along with his father-A1, had cheated the *de facto* complainant. Further, it is also mentioned that the petitioner-A2 is a signatory to the agreement of sale dated 20.09.2014 under which an amount of Rs.5,00,000/- was paid by the *de facto* complainant. The petitioner-A2 is none other than the son of A-1. As per the records, the house property proposed to be sold was already mortgaged with M/s. Repco Homes Finance Ltd. Under these circumstances, it cannot be held that there is no *mensrea* in the sale transaction entered into between the parties. Particularly, when the petitioner-A2 is a signatory to the agreement of sale, it cannot be held, at this juncture, that the petitioner-A2 is innocent and continuation of proceedings is an abuse of process of law.

The Criminal Petition is devoid of merits and is, accordingly, dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

**(DR. SHAMEEM AKTHER, J)**

14th March 2018
RRB