

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.24803 of 2017

ORDER

This petition is filed under Section 482 of Cr.P.C., to quash the proceedings in C.C.No.1810 of 2010 on the file of XI Additional Chief Metropolitan Magistrate, Secunderabad, registered for the offences under Sections 13,19 and 22 of A.P. Fire Service Act, 1999 read with Rules 15 and 26 (2) of A.P. Fire and Emergency Operations and Levy of Fee Rules, 2004 and Multi Storeyed Building Regulations 1981 and the Municipal Corporation Building Bye Laws, 1981 punishable under Section 31 of the A.P. Fire Service Act, 1999, against the petitioner/accused.

2. The respondent-State represented by the District Fire Officer, Hyderabad, filed a private complaint under Section 200 of Cr.P.C., alleging that the petitioner, who was the owner of multi storeyed building of M/s.Shama Apartment, has constructed the said building in violation of the various provisions referred above and thereby requested the Court to take cognizance, try and dispose of the matter by punishing the accused for the aforesaid offences.

3. The petitioner's main contention is that the complaint was filed after a long lapse of 20 years and earlier, a consumer dispute was decided by the District Consumer Forum in 2007 recording a specific finding that the petitioner was not responsible for the violations, if any. Therefore, taking advantage of the order passed by the District Consumer Forum, petitioner contended that the respondent is not

entitled to proceed against him merely because he was the original owner of the building and prayed to quash the proceedings.

4. Fairly, the petitioner represented that earlier he filed Crl.P.No.5126 of 2011, which ended in dismissal for default on 27.11.2017. The petitioner, taking advantage of the dismissal of application for default, renewed his request by filing a fresh application for the same relief on the same grounds and requested this Court to quash the proceedings.

5. As seen from the material on record, the petitioner allegedly violated various provisions of Fire Service Act, more particularly, Sections 13, 19 and 22 of A.P.Fire Service Act, 1999 read with Rules 15 & 26(2) of A.P. Fire and Emergency Operations and Levy of Fee Rules, 2004 and Multi Storeyed Building Regulations 1981 and the Municipal Corporation Building Bye Laws 1981. The contention of the petitioner is that he is not responsible because he was only the owner and that the developer is only responsible for the alleged violation as he is a general power of attorney holder of the owner and the owner remains as principal and the developer is an agent coupled with interest, which cannot be terminated under Section 202 of Indian Contract Act and that the owners purchased various flats long ago and residing therein. The petitioner was required to comply various provisions of the A.P.Fire Service Act at the time of construction of the building, but he did not comply the requirements under the Act allegedly. Even if a general power of attorney-agreement of sale was executed in favour of developer, he

is only a representative of the principal i.e., the owner of the premises, and the sale deeds were also executed by both.

6. Yet, learned counsel for the petitioner contended that the Act came into force in 1999, but the building was constructed long prior to commencement of the Act, and at this stage, it is difficult to accept that whether the Act either given retrospective or prospective effect. However, the petitioner filed Crl.P.No.5126 of 2011, which was ended for dismissal on 27.11.2017 and attained finality on the same grounds.

7. Learned counsel for the petitioner further contended that after a long lapse of time, the respondent cannot prosecute the petitioner and requested to quash the proceedings. But the delay alone is not a ground to quash the proceedings as held by this Court in **M.Yadagiri Goud v. Inspector of Police, Anti Corruption Bureau, Hyderabad Range¹** and also held by the Apex Court in **Ranjan Dweivedi v. C.B.I., through the Director General²**.

8. In view of the law declared by this Court and the Apex Court, the delay in filing the complaint is not a ground to quash the proceedings. Therefore, it is difficult to accept the contention of the petitioner and to quash the proceedings against him.

9. When the petitioner filed a similar application in Crl.P.No.5126 of 2011, which ended in dismissal for default and attained finality, the petitioner cannot renew his request by filing a fresh application,

¹ 1991 (3) ALT 80

² AIR 2012 SC 3217

which is an abuse of process of the Court. Therefore, I find no ground to quash the proceedings at this stage. Consequently, the Criminal Petition is liable to be dismissed.

10. In the result, the Criminal Petition is dismissed, at the stage of admission.

11. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.

3rd January, 2018

sj

M. SATYANARAYANA MURTHY, J

