

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.4891 of 2019

ORDER:

The petitioner, who is accused No.1, in C.C.No.767 of 2019 on the file of the IV Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar, Hyderabad, filed this Criminal Petition under Section 482 Cr.P.C. to quash the proceedings in the above C.C. A charge sheet came to be filed against the petitioner and another for the offences punishable under Sections 417, 419, 420 and 506 of I.P.C.

The facts which led to filing of the present Criminal Petition are that on 16.02.2018 at 1.00 p.m., the 2nd respondent/*de facto* complainant lodged a complaint stating that the petitioner/A1 and accused No.2 approached the 2nd respondent/*de facto* complainant stating that they are the owners and pattedars of land admeasuring Ac.8.20 gts., which is situated in Sy.No.46/2, Ismailkhanguda, Ghatkesar Mandal, Medchal District and they took the responsibility of other land owners ie., (1) G.Balatirupura Sundari Devi (Ac.4.00 gts.), (2) G.Uma Maheswar Rao (Ac.1.20 gts.), (3) G.Sathyanarayana (Ac.1.00 gt.), and (4) G.V.Ramakrishna Rao (Ac.2.00 gts.) which is total admeasuring Ac.8.20 gts. The petitioner/A1 and accused No.2 declared themselves to be the owners of the said land and agreed to sell the same to the 2nd respondent/*de facto* complainant at the rate of Rs.90,00,000/- per acre and received a sum of Rs.24,50,000/- from the 2nd respondent/*de facto* complainant as part of sale

consideration. The 2nd respondent/*de facto* complainant and the 1st petitioner/A1 and A2 entered into a Memorandum of Understanding on 22.03.2017 as there is no approach road for the said land. As per the said Memorandum of Understanding, they were supposed to provide to the 2nd respondent/*de facto* complainant the required documents for Zone Conversion and also to obtain NOC from the Government for sale and the sale transaction is to be completed after the Zone Conversion. Accordingly, the 2nd respondent/*de facto* complainant approached the neighbouring land owners and arranged the land which is required for the passage road of 30 feet to the said land ie., 6,650 square yards by spending Rs.1.30 Crores. The 2nd respondent/*de facto* complainant also submitted the application to HMDA for the Zone Conversion and paid the challan of Rs.3,00,000/- on the name of the petitioner/A1 and RTGS was made through Cheque No.72998559, Vijaya Bank, Dammaiguda Branch in favour of the Metropolitan Commissioner, Hyderabad, dated 04.04.2017. The said application is pending as the petitioner/A1 and A2 failed to comply with the terms and conditions of HMDA. On the enquiries made by the 2nd respondent/*de facto* complainant, he came to know that the above said land is the Government land ie., Laoni patta and not the owner patta of the 1st petitioner/A1 and A2. The said fact is proved by virtue of the pahanies, as such the petitioner/ A1 and A2 have cheated the 2nd respondent/*de facto* complainant and made him to part with huge amount of money. Believing the words of the

petitioner/A1 and A2, the 2nd respondent/*de facto* complainant had invested Rs.2.00 Crores for developing the said land. Thus, the petitioner/A1 and A2 cheated the 2nd respondent/ *de facto* complainant and criminally intimidated him. Basing on the said complaint, the Police, Ghatkesar, Rachakonda, registered a case in Crime No.101 of 2018, for the offences punishable under Sections 417, 419, 420 and 506 of I.P.C. After completion of investigation, the police filed charge sheet, which was taken cognizance as C.C.No.767 of 2019 and the same is pending before the IV Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar, Hyderabad.

Heard Sri T.Lakshminarayana, learned Counsel for the petitioner/A1, learned Additional Public Prosecutor appearing for the 1st respondent/ State and Sri K.Pradeep Reddy, learned Counsel appearing for Sru Govardhan Reddy Joundla, learned Counsel for the 2nd respondent/*de facto* complainant.

Learned Counsel for the petitioner/A1 submitted that the contents of the written complaint even if taken to be gospel truth, the same do not constitute any offence much less the alleged offences under Sections 417, 419, 420 and 506 of I.P.C. and hence the same is liable to be quashed against the petitioner/A1. It is also submitted that the allegations in the complaint purely civil in nature in as much as there is an agreement of sale dated 22.03.2017 which was wrongly titled as “Memorandum of Understanding” and instead of paying the balance sale consideration as agreed upon

under the said document, the 2nd respondent/*de facto* complainant invented the method of submitting the false complaint only with a view to delay the process and frustrate the contract and the 2nd respondent/*de facto* complainant has to pay the balance sale consideration within six months from the date of execution of the said document, dated 22.03.2017 and the said period was expired on 21.09.2017. Therefore, instead of filing the suit and work out his remedies, if really the 2nd respondent/complainant has any right to enforce the contract, but he had filed the present complaint to convert the civil dispute into a criminal case. It is also submitted that as the 2nd respondent/*de facto* complainant failed to adhere the conditions of the document, dated 22.03.2017, the petitioner/A1 through the legal notice, dated 20.08.2019 cancelled the said document and returned the total amount of Rs.24,50,000/- through an account payee Cheque No.000100, dated 15.08.2019, drawn on Bank of Baroda, MG Road Branch, Secunderabad in favour of the 2nd respondent/*de facto* complainant and sent the same through Registered Post with Acknowledgment Due. It is further submitted that the agreement of sale do not create any interest, hence the complaint is not maintainable without approaching the civil Court. The subject land is allotted to the political sufferer, who was the vendor of the accused and hence it is not a government land. He placed on record the G.O.Ms.No.1745, Revenue Department, dated 28.08.1959, to show that the Government permitted the political

sufferers to sell away the lands assigned to them without imposing any conditions.

Learned Counsel appearing for the 2nd respondent/*de facto* complainant submits that there are specific overt-acts against the petitioner/A1 and the contents of the charge sheet *prima facie* establish the offences alleged against him. He further submits that as per the pahanies, the subject land is the Government Land ie. Laoni Patta.

All the contentions raised by the learned Counsel for the petitioner/A1 relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioner/A1. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

On perusal of the impugned charge sheet and the material in support of the same, this Court does not find it to be a case which can be determined or gone into in an application under Section 482 Cr.P.C. This Court cannot hold a parallel trial in an application under Section 482 Cr.P.C. No such ground appears to be available to the petitioner on the basis of which the impugned charge sheet can be quashed going by the settled law in *R.P.Kapur v. State of*

*Punjab*¹; *State of Haryana v. Bhajan Lal*²; *State of Bihar v. P.P.Sharma*³ and *Zandu Pharmaceutical Works Limited v. Mohd. Saraful Haque and another*⁴. Hence, the prayer for quashing the proceedings in C.C.No.767 of 2019 on the file of the IV Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar, Hyderabad, is refused.

Accordingly the Criminal Petition is dismissed. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE G. SRI DEVI

20.12.2019
gkv

¹ AIR 1960 SC 866

² (1992) SCC (Cr.) 426

³ (1992) SCC (Cr.) 192

⁴ (2005) SCC (Cr.) 283