HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 9029 of 2015

ORDER:

This Criminal Petition is filed, under Section 482 Cr.P.C., by accused Nos.5 and 6, seeking to quash the proceedings in C.C.No.405 of 2014 on the file of the Junior Civil Judge-cum-XXVI Metropolitan Magistrate, Cyberabad at Maheshwaram.

The facts in issue are that on a complaint lodged by the 2nd respondent/*de facto* complainant, the police, Maheswaram Police Station, registered a case in Crime No.160 of 2012 against A-1 to A-4. After completion of investigation, a charge sheet came to be filed against accused Nos.1 to 7 for the offences punishable under Sections 417, 420, 406, 506, 468, 471 and 474 read with 34 of I.P.C. The allegations in the charge sheet are that A-1 to A-3 having connived with each other, prevailed upon the 2nd respondent/de facto complainant and his father to purchase the agriculture land in Sy.No.245 admeasuring Ac.1-24 Guntas, situated at Maheshwaram village, for a sum of Rs.64 Lakhs stating that the price offered by them is cheaper than the prevailing market value in the vicinity of the area. It is further stated that the 2nd petitioner/A-6, who is working as Village Revenue Officer, has also informed that the subject property under negotiating is not having any litigation and instigated the 2nd respondent/de facto complainant to purchase the same. Believing the same, the complainant paid huge amount and

purchased the subject property. In order to mutate the name of the complainant in the revenue record, A-1 had taken substantial amount in connivance with the petitioners/A-5 and A-6 by fabricating pattadar pass-books and title deeds as if the same are issued in accordance with the provisions of the ROR Act and the Rules made thereunder. It is further stated that even after issuance of RoR No.D/469/2008, pattadar pass books and title deeds by the 1st petitioner/A-5, who was working as In-charge Tahsildar, and the 2nd petitioner/A-6, have not entered the name of the complainant in pahaneis and I-B Register maintained under RoR Rules. Thereafter, the complainant filed an application before the Tahsildar, Maheswaram and then the Tahsildar having verified the records relating to the subject property and also on the report of the V.R.O, issued a Memo dated 18.02.2012, *inter alia*, stating that it is not possible to incorporate the name of the complainant in the revenue records as his vendor's name is not appearing in the revenue records and there is no extent of land as mentioned in the sale deed is available. It is further stated that A-1 to A-3 in collusion with the petitioners/A-5 and A-6 have created a fraudulent document for non-existing land with an intention to cause wrongful loss to the complainant.

A counter came to be filed by the 2nd respondent/*de facto* complainant contending that he lodged the above complaint against the petitioners/A5 and A6 and five others, who played fraud with a

dishonest intention and induced him to part with the money of Rs.64.00 Lakhs for the purpose of purchasing a land to an extent of Ac.1.24 gts., in Sy.No.245 of Maheswaram Village. Before purchasing the said property, he made enquiries with the office of the Tahsildar, Maheswaram Mandal, wherein the 2nd petitioner/A6, who is working as Village Revenue Officer, informed him that the subject property under negotiation is not having any litigation and instigated him to purchase the same. In order to mutate the name of the 2nd respondent/*de facto* complainant in the revenue records, A1 had taken substantial amount in connivance with the petitioners/A5 and A6, hatched a plan and fabricated pattadar pass books and title deeds as if the same are issued in accordance with the provisions of the R.O.R. Act and the Rules made thereunder. It is further contended that A1 to A3 in collusion with the petitioners/A5 and A6, have created fraudulent documents for non-existing land with an intention to cause wrongful loss to the 2nd respondent/*de facto* complainant. It is further contended that the police after investigation and collecting evidence, laid charge sheet and in a petition under Section 482 of Cr.P.C., this Court will not look into the credentials of the evidence collected for proceeding with the trial when *prima facie* complaint discloses the offence and it is settled principle of law that the Court should not weigh the evidence or scrutinize the same or rely upon the discrepancies for quashing of the crime. It is further contended that the 1st petitioner/A5 indulged in number of manipulation transactions of fraudulent records and

that a disciplinary action was initiated vide Proceedings No.A3/ 1818/2008, dated 29.03.2008. Even on earlier occasion, A1 and A7 filed Criminal Petition No.6490 of 2015 seeking to quash the proceedings in the above C.C., but the said petition was dismissed on 22.07.2015. Now, the petitioners/A5 and A6 and other accused, who are dodging the matter on one pretext or the other have come up with this petition on frivolous grounds to stall the proceedings in C.C.No.405 of 2014.

Heard learned Counsel appearing for the petitioners/A5 and A6; learned Additional Public Prosecutor appearing for the 1st respondent-State and learned Counsel appearing for the 2nd respondent/*de facto* complainant.

Learned Counsel for the petitioners/A5 and A6 would submit that the petitioners/A5 and A6 are innocent persons and they have not committed any offence much less the offences with which they are charged and they have been falsely implicated in the said case. It is further submitted that the petitioners were implicated in the case basing on the confessional statement of A1 to A3 and that the confession made before the police is inadmissible in the eye of law. It is further submitted that the petitioners/A5 and A6 are in no way concerned with the alleged transaction said to have been taken place between the 2nd respondent/*de facto* complainant and A1 to A3. It is also submitted that basing on the registered documents as well as the link documents issued by the predecessors of the 1st

petitioner/A5, R.O.R. proceedings and pattadar pass-books have been issued. The so-called documents are pertaining to the year, 2007 and the complaint was given on 08.08.2012 i.e., after a lapse of about five years. It is also submitted that even if the 2nd respondent/*de facto* complainant find any defective title, he has to avail the appropriate remedy of institution of the civil Suit before the competent Civil Court and also before the Revenue Courts against the responsible persons. Even as per the contents of the complaint, there is no whisper about the involvement of the petitioners/A5 and A6 and the entire allegations are made against A1 to A3 only. The 2nd respondent/*de facto* complainant neither paid the amount to the petitioners/A5 and A6 nor the petitioners/A5 and A6 are concerned with the land in question. It is also submitted that the allegations made in the complaint do not disclose the commission of any offence against the petitioners and do not *prima facie* constitute any offence against them. The charge sheet filed against the petitioners/A5 and A6 is *mala fide*, oppressive and vexatious and there is no *prima facie* case made out to connect the petitioners/A5 and A6 into this false case and, therefore, continuation of proceedings against the petitioners/A5 and A6 is an abuse of process of law.

Learned Counsel for the 2nd respondent/*de facto* complainant would submit that the truth or otherwise of the allegations made in the charge sheet cannot be adjudicated at this stage since the

allegations made in the charge sheet *prima facie* disclose commission of offence.

All the contentions raised by the learned Counsel for the petitioners/A5 and A6 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 petitioners/A5 and A6. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against him in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

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 petitioners/A5 and A6 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.405 of 2014 on the file of the Junior Civil Judge-cum-XXVI Metropolitan Magistrate, Cyberabad at Maheshwaram, is refused.

Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

JUSTICE G. SRI DEVI

20.12.2019
Gsn

[1] AIR 1960 SC 866
[2] (1992) SCC (Cr.) 426
[3] (1992) SCC (Cr.) 192
[4] (2005) SCC (Cr.) 283

HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD