

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 9420 of 2018

ORDER:

1. The petitioner, who is accused No.1, filed this Criminal Petition under Section 482 Cr.P.C. seeking quashing of all further proceedings in C.C.No.1715 of 2016 on the file of the III Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.

2. The second respondent herein filed a private complaint against the petitioner/A1 and another for the offences punishable under Sections 420 and 120-B read with 34 of I.P.C. The averments in the complaint would show that the second respondent/complainant is the sister-in-law of the petitioner/A1. The accused created disputes over sharing of the properties of his late father. In this connection, the husband of the second respondent and the accused had filed civil suits against each other. During pendency of the civil cases, the accused approached the husband of the second respondent with dishonest and fraudulent intention to cheat him and made a proposal for compromise and asked the husband of the second respondent to give them an amount of Rs.8,00,000/- and some other properties. Believing the said version, with a bonafide intention of settling the family disputes, the husband of the second respondent gave an amount of Rs.8,00,000/- through D.D.bearing No.122040 dated 06.07.2013 drawn on State Bank of Mysore, Banjara Hills, Hyderabad and also agreed to share immovable properties.

Thereafter, the husband of the second respondent, accused and other children of late Prasad Rao, who is the father of the petitioner, entered into a compromise deed, dated 06.07.2013. After receiving the demand draft and handing over of immovable properties as per the compromise deed, with a dishonest intention the petitioner is evading to come to the Court for settlement in accordance with the compromise deed. After securing the benefit of the compromise valuable properties and cash, now the petitioner is not coming forward to the Court to get the compromise decree. Thus, the accused have cheated the husband of the complainant. Basing on these allegations a private complaint came to be filed, which was taken on file as C.C.No.1715 of 2016. The present Criminal Petition is filed seeking quashing of the proceedings in the above C.C.

3. Learned counsel for the petitioner would submit that admittedly, the petitioner has received an amount of Rs.8,00,000/- from the husband of the second respondent, but the same was returned to the second respondent after the death of her husband. He further submits that the husband of the second respondent filed a private complaint vide C.C.No.60 of 2015, for the offences punishable under Sections 420 and 120-B IPC, which was closed due to the death of the husband of the second respondent. He further submits that the said amount of Rs.8,00,000/- was paid through bankers cheque dated 09.02.2016. He further submits that on 14.02.2017, the second respondent herein stated before the XVII

Additional Chief Judge that they are not going to not press the A.S.No.345 of 2009 and sought time for one week.

4. Learned counsel for the second respondent would submit that the compromise deed is not one sided. After enjoying the fruits of money for a period of two years, the petitioner chosen to return the said amount. The petitioner is now avoiding performing his part of the contractual terms of the compromise deed. The husband of the second respondent has secured the amount of Rs.8,00,000/- with high rate of interest. The petitioner failed to return the property which he got from his brother.

5. A perusal of the material on record would show that the dispute is within the members of the family with regard to sharing of the property. Admittedly, the petitioner entered into compromise deed with his brothers and sister and enjoyed the fruits of the cash received from the husband of the second respondent. The petitioner also enjoyed the property got by him through the compromise deed. If the petitioner has not agreed to compromise and the compromise deed is one sided, he has to return the amount immediately and only with a dishonest intention he kept the amount of Rs.8,00,000/- with him for a period of two years and only after the death of the husband of the second respondent, he returned the amount. The contention of the petitioner is that the husband of the second respondent filed another private complaint against him, which was closed. The record shows that the private complaint filed by the

husband of the second respondent was closed due to his death but not otherwise. After closure of the said complaint, the second respondent filed the present private complaint. The sworn statement of Shyla Hayward, who is the sister of the petitioner, shows that the petitioner did not fulfil his promise to compromise the matter and his whereabouts are not known and he is not coming forward to settle the dispute. The sworn statement of P.Stevenson, which was recorded in the private complaint filed by the husband of the second respondent, clearly shows that the accused, after having secured the benefit of the compromise, valuable properties and cash, now not coming forward to the Court to get the compromise decree. Thus, there are specific allegations that the petitioner cheated and deceived them. Therefore, 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 proceedings in C.C.No.1715 of 2016 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* (Para No.10⁴). Accordingly, the prayer for quashing the proceedings in C.C.No.1715 of 2016 is refused.

¹ AIR 1960 SC 866

² (1992) SCC (Cr.) 426

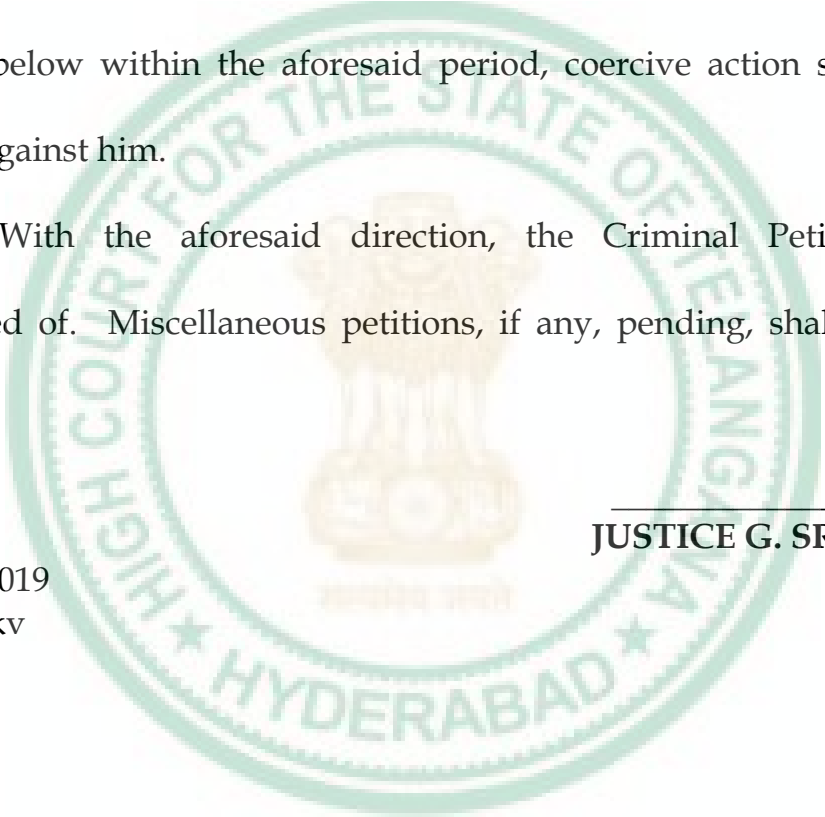
³ (1992) SCC (Cr.) 192

⁴ (2005) SCC (Cr.) 283

6. However, considering the facts and circumstances of the case, it is provided that if the petitioner appears and surrenders before the Court below within a period of fifteen days from today and apply for bail, his prayer for bail shall be considered and decided on the same day, in accordance with law. For a period of third days from today or till the petitioner surrenders, whichever is earlier, no coercive action shall be taken against the petitioner/accused. However, in case, the petitioner does not appear before the Court below within the aforesaid period, coercive action shall be taken against him.

7. With the aforesaid direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending, shall stand closed.

09.09.2019
Gsn/gkv

A large, faint, circular watermark seal of the High Court for the State of Telangana, Hyderabad, is centered in the background. It features the Ashoka Lion Capital in the center, surrounded by the text 'HIGH COURT FOR THE STATE OF TELANGANA' and 'HYDERABAD' at the bottom.
JUSTICE G. SRIDEVI