

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.11569 of 2011

ORDER:

The petitioner, who is accused No.4, in C.C.No.170 of 2011 on the file of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, filed this Criminal Petition under Section 482 Cr.P.C. to quash the proceedings in the above C.C. registered for the offences punishable under Sections 420, 468, 471, 120-B, 447, 427 and 506 of I.P.C.

The facts which led to filing of the present Criminal Petition are that a case in Crime No.592 of 2009 of Hayathnagar Police Station, Cyberabad, came to be registered on 27.11.2009, against the accused for the offences punishable under Sections 447, 427 and 506 IPC, basing on the report lodged by the 2nd respondent/complainant. The police investigated into the matter and filed a final report referring the case as "Civil in Nature". Against which, a protest petition was filed by the 2nd respondent/complainant.

A perusal of the sworn statement of the 2nd respondent would show that he intended to purchase Ac.5.00 gts., of land in Sy.No.107 of Taramathipet Village, Hayathnagar Mandal, Ranga Reddy District, from Accused No.1 through an agreement of sale, dated 28.08.2003 for a total sale consideration of Rs.15,00,000/- . On the date of sale agreement, he had paid Rs.10,50,000/- . As the accused No.1 failed to register the land, he filed a suit for specific

performance of agreement of sale vide O.S.No.357 of 2005 on the file of the Principal District Judge, Ranga Reddy District at L.B.Nagar. Accused No.1 concocted an agreement of sale dated 22.02.2002 on a fake stamp paper in favour of the petitioner/ A.4. Then, the 2nd respondent/ complainant made a complaint to the District Registrar, Stamps, Hyderabad South, who in turn issued a reply, dated 02.12.2009 and also enclosed the relevant records. Therefore, the 2nd respondent/ complainant gave a report to Hayathnagar Police against accused Nos.1 to 6, as A-2 is the husband of A-1, A-3 is the GPA holder of A-1, and the same was registered as a case in Crime No.592 of 2009. During the course of investigation, Hayathnagar police obtained opinion from the District Registrar with regard to Ex.P4-fake agreement of sale. The record submitted by the District Registrar to the police confirms that the stamp paper vide S.No.1604 on which the agreement of sale, dated 22.02.2002 was executed, was issued in the name of one Mariyam Begum. Basing on the said record, the police filed a memo before the Court for addition of section of law. During pendency of investigation, accused Nos.5 and 6 trespassed into his land while he was digging a Bore Well and damaged the said Bore Well, thereby causing loss to a tune of Rs.1.00 lakh. As such, the 2nd respondent/ complainant again approached the police and informed the same, but they have not taken any action and issued a notice to him stating that the case is closed as "civil in nature". Hence, he filed the protest petition and prayed to punish the accused after due enquiry. After recording the sworn statement of

the 2nd respondent/ complainant, one Ponnala Mohan Reddy and S.Buchi Reddy, the learned Magistrate has taken cognizance of the case for the offences punishable under Sections 420, 468, 471, 120-B, 447, 427 and 506 of I.P.C. and the same was numbered as C.C.No.170 of 2011. The present Criminal Petition is filed to quash the proceedings in the said C.C.

Learned Counsel for the petitioner/ A.4 submitted that the agreement of sale executed in favour of the petitioner/ A4 is dated 22.02.2002, whereas the agreement of sale executed in favour of the 2nd respondent/ complainant is dated 28.08.2003. The petitioner filed O.S.No.1205 of 2007 for specific performance of agreement and obtained a decree. Subsequently, he filed E.P.No.23 of 2008 and got the decree executed and obtained a registered sale deed from Court vide document No.463 of 2009 and also got possession of the property vide E.A.No.84 of 2009 in E.P.No.23 of 2008 and the panchanama dated 11.09.2009, is much prior to the complaint lodged by the 2nd respondent/ complainant. It is also submitted that the two suits filed by the 2nd respondent i.e., O.S.No.357 of 2005 seeking specific performance of agreement of sale, dated 28.08.2003 and O.S.No.546 of 2009 seeking to set aside the judgment and decree in O.S.No.1205 of 2007 and also for cancellation of registered sale deed bearing No.463 of 2009 are pending adjudication before the civil Courts. Considering the same, the police rightly filed final report dated 25.01.2010, referring the complaint in FIR No.592 of 2009 as "civil in nature" and requested the Court to close the complaint. It is

further submitted that the attempt on the part of the 2nd respondent/ complainant is to see that the civil dispute is sought to be given a colour of criminal offence to defeat the decree obtained by the petitioner from the competent civil Court. Hence, the petitioner cannot be allowed to be subjected to rigmarole of criminal prosecution when admittedly civil suits have already been filed against the petitioner-A4 and others. In support of his contentions, he relied on the following citations.

- 1) *Joseph Salvaraj A. v. State of Gujarat and others*¹
- 2) *Paramjeet Batra v. State of Uttarakhand and others*²
- 3) *Binod Kumar and others v. State of Bihar and another*³
- 4) *Rashmi Jain v. State of Uttar Pradesh and another*⁴

Per contra, it has been submitted on behalf of the 2nd respondent/ complainant that the learned Magistrate after referring to all the supporting documents filed along with the protest petition and also the police report, took cognizance of the offences under Sections 420, 468, 471, 120-B, 447, 427 and 506 of I.P.C and ordered issuance of summons to all the accused in C.C.No.170 of 2011, dated 17.03.2011. After getting satisfied properly as to the existence of the essential ingredients of the offences and after applying sufficient judicious mind only, the learned Magistrate took cognizance. Thus, it is a valid order and the same cannot be quashed. It is also submitted that the 2nd respondent/ complainant purchased the land to an extent of

¹ (2011) 7 SCC 59

² (2013) 11 SCC 673

³ (2014) 10 SCC 663

⁴ (2014) 13 SCC 553

Ac.5.00 in Sy.No.107 of Tharamathipet village, Hayathnagar Mandal, Rangareddy District, from accused No.1 through an agreement of sale, dated 28.08.2003 for a total sale consideration of Rs.15,00,000/- and on the date of agreement of sale, he paid major part of sale consideration of Rs.10,50,000/-. As the accused No.1 failed to execute the registered sale deed, he filed O.S.No.357 of 2005 for specific performance of agreement of sale. In the said suit, accused No.1 filed her written statement admitting the execution of agreement of sale and also receipt of major part of sale consideration. It is also submitted that on 02.12.2009 and 04.12.2009 the District Registrar, South, Hyderabad, issued a reply stating that the stamp paper with Serial No.1604, dated 22.02.2002, was sold to the petitioner/ A.4 through the stamp vendor M.A.Hameed, Sultan Shahi, Hyderabad, is not coming forth from the Sale Register (Stamps), submitted by the Stamp Vendor M.A.Hameed. The said stamp paper was actually sold to Ms. Mariam Begum W/o. Mohd. Taher on 16.02.2002 but not to the petitioner/ A.4, and thus the said stamp paper is fake. The fraud committed by the petitioner/ A.4 clearly establishes that the agreement of sale, dated 22.02.2002, entered into by Accused Nos.1 to 4 in collusion, was on a fake stamp paper when compared with the original records. As such, the 2nd respondent/ complainant made a complaint to the Police, Hayathnagar on 03.12.2009, who in turn obtained similar information from the District Registrar, South, Hyderabad. The fact of collusion of accused Nos.1 to 4 in creation of agreement of sale, on a fake stamp paper is also

reported by the police in their final report and the police also requested the Magistrate to add the offences under Sections 420, 468, 471 and 120B of I.P.C. in addition to Sections 447, 427 and 506 of I.P.C. Thus, accused Nos.1 to 6 are liable for the said offences. After considering all the ingredients of the offences punishable under Sections 420, 468, 471, 120-B, 447, 427 and 506 of I.P.C., with judicious mind, the learned Magistrate took cognizance of the said offences against accused Nos.1 to 6.

It is also submitted by the learned Counsel for the 2nd respondent/ complainant that during pendency of O.S.No.357 of 2005, filed by the 2nd respondent, accused No.1 fraudulently, in collusion with the petitioner/ A.4, fabricated a false agreement of sale, dated 22.02.2002 on a fake stamp paper. Basing on the fake stamp paper, the petitioner/ A.4, in collusion with A-1, filed O.S.No.1205 of 2007 on the file of the II Additional Senior Civil Judge, Panga Reddy District. Accused Nos.1 to 3, who are defendants in the said suit, remained *ex parte* and facilitated the petitioner/ A.4 to obtain *ex parte* decree and judgment in his favour. After coming to know about the same, the 2nd respondent/ complainant filed O.S.No.546 of 2009 for setting aside the judgment and decree passed in O.S.No.1205 of 2007 and also to cancel the sale deed No.463 of 2009 as null and void. Both the suits are clubbed and are pending. All the defendants in the above two suits, failed to adduce evidence and their evidence was closed. It is also submitted that the 2nd respondent/ complainant is in possession and enjoyment of the suit land and his name has

been recorded in the revenue records. Thus, all the accused have committed the offences stated supra. In support of his contentions, he relied on the following citations.

1. *Pawankumar v. Ashish Enterprises, registered partnership Firm by its Partner and others*⁵
2. *V.Kothari and others v. State of U.P. and others*⁶
3. *A.Ramesh Babu v. State of Andhra Pradesh and another*⁷
4. *Mahesh Chaudhary v. State of Rajasthan and another*⁸
5. *Dr.Raman Srikanth v. State of Telangana and another*⁹
6. *L.Narayana Swamy v. State of Karnataka and others*¹⁰
7. *M/s. Sri Krishna Agencies v. State of A.P. and another*¹¹

The contention of the learned Counsel for the petitioner/ A.4 is that it is a civil dispute and in view of the suits pending before the competent Court of law, the criminal Court cannot decide the fact in issue as to whether it amounts to an offence under Sections 447, 427 and 506 of I.P.C. It is also his contention that according to the contents of the First Information Report and Final Report submitted by the police, there is a stamp paper on which the agreement of sale was engrossed and that the said stamp paper was purchased from a stamp vendor and in that respect the case of the 2nd respondent/ complainant is that the Stamp Vendor's

⁵ (1992) Cr.L.J.1619

⁶ (1991) Cr.L.J. 1606

⁷ (2012) 2 ALD (Cr.L.) 34 (AP)

⁸ (2009) 4 SCC 439

⁹ (2015) 2 ALD (Cr.L.) 750

¹⁰ (2016) 9 SCC 598

¹¹ (2009) Cr.L.J. 787

Register shows that only Rs.50/- denomination stamp was sold to a different person but not to the petitioner/ A.4. Thus, it is argued that under the Stamp Act, there is absolutely no prohibition to use the stamp purchased by another person to draft a document in the name of different person. Even otherwise, he would submit that whether or not the agreement of sale is enforceable or whether the exparte decree obtained by the petitioner/ A.4 in O.S.No.1205 of 2007 is valid and binding on the 2nd respondent/ complainant are matters to be enquired into, which is subjudice in the civil Court and it has to be adjudicated upon by the civil Court and certainly those issues cannot be entertained by a criminal Court under the pretext of investigation into certain offences as aforesaid.

In order to substantiate his contention that it is not appropriate and sustainable to initiate prosecution on certain facts which are evidently demonstrating a civil dispute, which has already been initiated by the 2nd respondent/ complainant and the prosecution subsequently initiated by the 2nd respondent/ complainant and the order of the Magistrate in issuing process are illegal and therefore the complaint is liable to be quashed under Section 482 of Cr.P.C., he placed strong reliance on the case laws of the Apex Court in *The Commissioner of Police and others v. Devender Anand and others*¹² and *Indian Oil Corporation v. NEPC India Limited*¹³ apart from the case laws cited by the learned Counsel for the petitioner/ A.4.

¹² AIR 2019 SC 3807

¹³ (2006) 6 SCC 736

On the other hand, according to the contentions of the learned counsel for the 2nd respondent/complainant, the agreement of sale which was executed in favour of the present petitioner/ A.4 was brought into existence collusively. It is his further contention that purchasing a stamp paper in the name of a different person and not in the name of the petitioner/ A.4 is indicative of the fact that the agreement is manipulated on procuring the stamp paper at a later date and the said document was pressed into service to defeat the bonafide and genuine claim of the 2nd respondent/ complainant over the immovable property which was purchased by him for good and adequate consideration. It is vehemently argued by the learned Counsel for the 2nd respondent/ complainant that the power of the Court under Section 482 of Cr.P.C. shall be used only in exceptional cases and this case does not demonstrate such exceptional circumstances to quash the proceedings. Thus, he urged to dismiss the criminal petition in limine.

In the light of the aforesaid submissions and having gone through the material on record, the following points are germane for this Court for appropriate decision of the dispute involved between the parties.

1. Whether the complaint in C.C.No.170 of 2011 on the file of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, sans any merit to proceed further in trial?
2. If so, whether the complaint is liable to be quashed under Section 482 of Cr.P.C.

A conjoint reading of the entire material available on record in general and the complaint in particular, which transpires that the 2nd respondent/complainant had intended to purchase the immovable property admeasuring Acs.5.00 in Sy.No.107 of Taramathipet Village, Hayathnagar Mandal, Ranga Reddy District, from its original owner i.e., Accused No.1 under the deed of agreement for sale which was said to have been executed on 28.08.2003 and because accused No.1 (vendor) failed to perform her part of contract, the 2nd respondent/ complainant filed a suit for specific performance of contract in O.S.No.357 of 2005. However, it was subsequently brought to the notice of the 2nd respondent/ complainant that accused No.1 had colluded with the present petitioner/ A.4 and brought into existence a collusive and ante-dated agreement of sale said to have been executed on 22.02.2002 and since accused No.1 failed to perform the terms and conditions of the agreement of sale, the present petitioner had filed O.S.No.1205 of 2007 for specific performance of agreement against accused No.1 and obtained an ex parte decree therein. Thereafter, he got the sale deed executed in his favour through Court in E.P.No.23 of 2008 and subsequently vide E.A.No.84 of 2009 he got possession of the property on 11.09.2009. The 2nd respondent/ complainant filed O.S.No.546 of 2009 for setting aside the said decree in O.S.No.1205 of 2007 and cancellation of sale deed and the same is still pending for adjudication.

The above material facts are not at all in dispute. The disputed question between the parties is whether the agreement

of sale, dated 22.02.2002, is collusive and invalid and further whether the decree obtained by the petitioner/ A.4 in O.S.No.1205 of 2007 is liable to be set aside?

For setting aside a decree or other instruments, Section 31 of the Specific Relief Act provides for a civil action. Section 31 of the Special Relief Act, reads as under:

“Section 31. When cancellation may be ordered.—

(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.”

Obviously, the 2nd respondent/ complainant, who is challenging the validity of the decree in O.S.No.1205 of 2007, shall prove that the decree in that suit is void or voidable for the reasons assailed by him and till then, the said decree is valid and binding on all the parties including the 2nd respondent/ complainant because the 2nd respondent/ complainant is claiming that the said decree is only voidable and for that reason only he filed a suit for setting aside the said decree. Had it been a case of the 2nd respondent/ complainant that the decree is void, having been obtained by playing fraud etc., then he would not have filed a suit

for cancellation of registered sale deed, but would have simply ignored the existence of the decree and sought for the decree for specific performance against his vendor (accused No.1) and also the subsequent purchaser ie. present petitioner/ A.4 herein.

It is appropriate to notice that under the provisions of Specific Relief Act, a bonafide purchaser for valid consideration without notice of earlier sale is entitled to specific performance or for recovery of sale consideration paid by him against the vendor of the property.

In *the Commissioner of Police v. Devender Anand and others* (12 *supra*) the Apex Court held as under:

“4.1 Even considering the nature of allegations in the complaint, we are of the firm opinion that no case is made out for taking cognizance of the offence under Section 420/ 34 IPC. The case involves a civil dispute and for settling a civil dispute, the criminal complaint has been filed, which is nothing but an abuse of the process of law.

4.2 It is required to be noted that after having come to know that the property was mortgaged with the Andhra Bank, the original complainant himself paid the mortgage money and got the mortgage redeemed. Not only that, thereafter, he got the sale deed executed in his name. Thereafter also, he filed the complaint with the learned Magistrate, being an application under Section 156(3) of the Cr.P.C., which came to be rejected by the learned Magistrate, vide order dated 27.03.2015. The said order was not assailed by the complainant. It appears that thereafter he filed a private complaint under Section 200 Cr.P.C. which was pending before the learned Magistrate. Despite the above, he filed a writ petition before the High Court, which is nothing but an

abuse of the process of law. The criminal proceedings have been initiated by the original complainant to settle the civil dispute. Therefore, in the facts and circumstances of the case, the Investigating Officer and other police officers were justified in not registering the FIR and in coming to the conclusion that the complaint be filed. The earlier opinion on preliminary inquiry was never placed before the DCP. Thereafter, on thorough investigation/inquiry and considering the facts and circumstances of the case narrated hereinabove, when it was opined that the dispute between the parties is of a civil nature, the High Court ought not to have issued further directions. The High Court ought to have closed the proceedings. Not only the High Court has issued further directions, but even has imposed costs and an action against the appellants 3 to 5 herein which, in the facts and circumstances of the case, is not sustainable.”

In *Indian Oil Corporation vs. NEPC India Limited* (13 *supra*) the Apex Court held as under:

“While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”

In *Paramjeet Batra v. State of Uttarakhand and others* (2 *supra*) the Apex Court in para Nos.12 to 14 held as under:

“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court.

13. As we have already noted, here the dispute is essentially about the profit of the hotel business and its ownership. The pending civil suit will take care of all those issues. The allegation that forged and fabricated documents are used by the appellant can also be dealt with in the said suit. Respondent 2's attempt to file similar complaint against the appellant having failed, he has filed the present complaint. The appellant has been acquitted in another case filed by respondent 2 against him alleging offence under Section 406 of the IPC. Possession of the shop in question has also been handed over by the appellant to respondent 2. In such a situation, in our opinion, continuation of the pending criminal proceedings would be abuse of the process of law. The High Court was wrong in holding otherwise.

14. In the circumstances, the impugned order dated 29/ 9/ 2011 passed by the Uttarakhand High Court is set aside. The entire proceedings of Criminal Case No. 723/ 2005 (charge-sheet No. 32/ 2005), and the order of cognizance dated 22/ 3/ 2005 passed thereon by the Judicial Magistrate, Khatima, District Udham Singh Nagar against the appellant, respondents 3 and 4 and against accused Rajpal for the

offences punishable under Sections 406, 420, 467, 468, 471, 447, 448 read with Section 34 of the IPC are quashed and set aside. This order will however have no effect on the pending civil suit between the parties. Needless to say that the court, seized of the said suit, shall decide it independently and in accordance with law.”

In *Binod Kumar and others v. State of Bihar and another*

(3 *supra*) the Apex Court in para Nos.17 to 19 held as under:

“17. Section 420 IPC deals with cheating. Essential ingredients of Section 420 IPC are:- (i) cheating; (ii) dishonest inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or signed or is capable of being converted into a valuable security, and (iii) mens rea of the accused at the time of making the inducement.

18. In the present case, looking at the allegations in the complaint on the face of it, we find no allegations are made attracting the ingredients of Section 405 IPC. Likewise, there are no allegations as to cheating or the dishonest intention of the appellants in retaining the money in order to have wrongful gain to themselves or causing wrongful loss to the complainant. Excepting the bald allegations that the appellants did not make payment to the second respondent and that the appellants utilized the amounts either by themselves or for some other work, there is no iota of allegation as to the dishonest intention in misappropriating the property. To make out a case of criminal breach of trust, it is not sufficient to show that money has been retained by the appellants. It must also be shown that the appellants dishonestly disposed of the same in some way or dishonestly retained the same. The mere fact that the appellants did not pay the money to the complainant does not amount to criminal breach of trust.

19. Even if all the allegations in the complaint taken at the face value are true, in our view, the basic essential ingredients of dishonest misappropriation and cheating are missing. Criminal proceedings are not a short cut for other remedies. Since no case of criminal breach of trust or dishonest intention of inducement is made out and the essential ingredients of Sections 405/ 420 IPC are missing, the prosecution of the appellants under Sections 406/ 120B IPC, is liable to be quashed.”

In *S.W.Palanitkar v. State of Bihar*¹⁴ the Apex Court held as under:

“Before examining respective contentions on their relative merits, we think it is appropriate to notice the legal position. Every breach of trust may not result in a penal offence of criminal breach of trust unless there is evidence of a mental act of fraudulent misappropriation. An act of breach of trust involves a civil wrong in respect of which the person wronged may seek his redress for damages in a civil Court but a breach of trust with mens rea gives rise to a criminal prosecution as well.”

In *Hridaya Ranjan Prasad Verma v. State of Bihar*¹⁵ the Apex Court held as under:

“In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for his subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore it is the

¹⁴ (2002) 1 SCC 241

¹⁵ (2000) 4 SCC 168

intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed.”

In *G. Sagar Suri v. State of U.P.*¹⁶ the Apex Court held as under:

“8. Jurisdiction under Section 482 of the Code has to be exercised with great care. In exercise of its jurisdiction the High Court is not to examine the matter, superficially. It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process, a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

In *Joseph Salvaraj A. v. State of Gujarat and others* (1 *supra*) the Apex Court held as under:

“18. In fact, all these questions have been elaborately discussed by this Court in the most oft quoted judgment reported in 1992 (Suppl) 1 SCC 335 *State of Haryana Vs. Bhajan Lal*, where seven cardinal principles have been carved out before cognizance of offences, said to have been committed, by the accused is taken. The case in hand unfortunately does not fall in that category where cognizance of the offence could have been taken by the

¹⁶ (2000) 2 SCC

court, at least after having gone through the F.I.R., which discloses only a civil dispute.

19. The Appellant cannot be allowed to go through the rigmarole of a criminal prosecution for long number of years, even when admittedly a civil suit has already been filed against the Appellant and Complainant-Respondent No. 4, and is still subjudice. In the said suit, the Appellant is at liberty to contest the same on grounds available to him in accordance with law as per the leave granted by Trial Court. It may also be pertinent to mention here that the complainant has not been able to show that at any material point of time there was any contract, much less any privity of contract between the Appellant and Respondent No. 4 - the Complainant. There was no cause of action to even lodge an FIR against the Appellant as neither the Complainant had to receive the money nor he was in any way instrumental to telecast "GOD TV" in the central areas of Ahmedabad. He appears to be totally a stranger to the same. Appellant's prosecution would only lead to his harassment and humiliation, which cannot be permitted in accordance with the principles of law."

Admittedly, as aforesaid the 2nd respondent/ complainant had filed the civil suit for setting aside the decree obtained by the petitioner/ A.4 herein in O.S.No.1205 of 2007 and cancellation of the registered sale deed and the same is pending vide O.S.No.546 of 2009 before the I Additional District Judge, Ranga Reddy District at L.B.Nagar. Whether or not the petitioner/ A.4 herein enforced the collusive agreement of sale or whether the said agreement of sale is vitiated for any other reason is a question falling within the domain of the civil Court and making a complaint for the offences above is nothing but diverting the course of civil law to a criminal action.

Applying the principles of the aforesaid case laws into the facts of the present case, this Court is of the considered opinion that an attempt has been made by the 2nd respondent/ complainant to cloak a civil dispute with a colour of criminal nature. This appears to be an exceptional circumstance to the general rule that the power of this Court shall be exercised only in exceptional circumstances.

In view of the above facts and circumstances of the case and in the light of the law laid down by the Apex Court, this Court is of the considered view that it is a fit case to quash the proceedings against the petitioner/ A.4 in C.C.No.170 of 2011.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/ A.4 in C.C.No.170 of 2011 on the file of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, are hereby quashed.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE G. SRI DEVI

10.01.2020
gkv/ Gsn

