

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE SEVENTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

THE HONOURABLE SRI JUSTICE E V VENUGOPAL

CRIMINAL PETITION NO: 3648 OF 2015

Between:

Gongireddy Maheswar Reddy, S/o. Kodanda Ram Reddy, R/o. Somaram, Rajapet
mandal, Nalgonda District.

...Petitioner/Accused

AND

1. The State Of Telangana Rep. by its PP, High Court Buildings, Hyderabad.
2. Ravi Indrasena Reddy, S/o. Late Rami Reddy, R/o.H.No.1-2-279, Siddipet
Road, Jangaon, Warangal District.

...Respondent/complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash all further proceedings in C.C.No.106 of 2014 on the file of the Court of Principal Judicial First Class Magistrate, Jangaon.

I.A. NO: 1 OF 2015(CRLPMP. NO: 3918 OF 2015)

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including appearance of the petitioner C.C.No.106 of 2014 on the file of the Court of Principal Judicial First Class Magistrate, Jangaon.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri N HARI PRASAD, Advocate for the Petitioner, Sri VIZARATH ALI, Assistant Public Prosecutor on behalf of the Respondent No.1 and of Sri PADMA RAO G.S. LAKKARAJU, Advocate for the Respondent No. 2

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE E.V.VENUGOPAL

CRIMINAL PETITION No.3648 OF 2015

ORDER:

1 This criminal petition, under Section 482 Cr.P.C, is filed seeking to quash the proceedings against the petitioner herein in C.C.No.106 of 2014 on the file of the Court of the Principal Judicial First Class Magistrate, Jangaon, registered for the offences punishable under Section 420 IPC.

2 Heard Sri N. Hari Prasad, learned senior counsel for the petitioner and Sri Vizarith Ali, the learned Assistant Public Prosecutor appearing for the first respondent – State and Sri Padma Rao G.S.Lakkaraju, learned counsel for the second respondent.

3 The accusation against the petitioner is that the second respondent lodged a complaint alleging that on 17.01.2013, the petitioner herein took Rs.30.00 lakhs as advance to sell his land of Ac.34-22 $\frac{3}{4}$ guntas of agricultural land. The value of the land per acre was fixed as Rs.2,80,000/-. Again on 16.3.2013 on the premise that the sister of the petitioner by name Leelavathi also intends to sell her land admeasuring Ac.8-10 guntas, to which also the rate per acre was fixed at Rs.2,80,000/- the second respondent paid an amount of Rs.10.00 lakhs to the petitioner. The petitioner received the said amount also promising to give receipt after it is executed by his sister. Be that as it may, as the last date for payment of amount being 17.7.2013, the second respondent along with elders went to

the petitioner one month prior to the date and requested him to measure the land for the purpose of paying the balance as per the agreement. But the petitioner postponed the same under one pretext or the other. Then, the second respondent having entertained some suspicion, enquired in the village and he also applied E.C. and pahani copies from Mee Seva. To his utter surprise, to the first respondent came to know that the petitioner is having only an extent of Ac.0-14 guntas in Sy.No.9 but as per the version of the petitioner the petitioner is having Ac.1-34 guntas. The second respondent also came to know that the petitioner sold the land to some third parties prior to the agreement of sale dated 16.3.2013 and suppressing the said fact that he is having only Ac.0-14 guntas in Sy.No.9, the petitioner entered into an agreement of sale for Ac.1-34 guntas as if still the petitioner is holding Ac.1-34 guntas. Likewise the second respondent also came to know that the entire extent of Ac.1-29 $\frac{1}{4}$ guntas in Sy.No.134/aa which is being cultivated by some ryots, was also not disclosed to the second respondent at the time of entering into the agreement of sale. Further, there is no land in Sy.No.10/a as the petitioner sold the same to some third parties prior to the agreement of sale. Hence it is not possible for the petitioner to convey the Ac.1-34 guntas in Sy.No.9, but he can convey only Ac.0-14 guntas in Sy.No.9 and the extent of Ac.1-29 $\frac{1}{4}$ guntas in Sy.No.134/aa is not at all possible for the petitioner to sell as the same is occupied by some farmers and the petitioner is nowhere in possession of

the said lands. Further, the petitioner had already sold Ac.1-08 ½ guntas of land in Sy.No.10/a to third parties prior to the agreement of sale. Hence the second respondent filed the complaint praying to punish the petitioner for the offence under Section 420 of IPC.

4 The learned trial Court has taken cognizance of the same as C.C.No.106 of 2014. As stated supra, seeking to quash the said proceedings, the petitioner filed the present criminal petition.

5 The learned counsel for the petitioner submitted that the complaint was filed with a mala fide intention to coerce the petitioner in terms. It is the vehement contention of the learned counsel for the petitioner, even according to the first respondent, is that the balance sale consideration money is to be paid after measuring the land and taking into consideration of the land available for sale. It indicates that the parties are not sure as to the exact extent available for sale in which event the question of cheating on the basis of the agreement of sale does not arise. Even according to the complaint the petitioner offered to return the money by issuing a legal notice and this makes it very clear that question of intention to cheat also does not arise as the petitioner offered to return the money.

6 The learned counsel for the petitioner further submitted that the dispute is purely of civil nature since the second respondent had already filed O.S.No.127 of 2013 before the civil Court for specific performance of

agreement of sale dated 16.3.2013. Therefore, the offence under Section 420 IPC as alleged against the petitioner does not stand for scrutiny and the learned trial Court erred in taking cognizance of the offence.

7 The learned counsel for the petitioner filed a copy of the judgment dated 10.3.2020 in O.S.No.127 of 2013 whereby the said suit was decreed partly in favour of the second respondent holding that the probabilities of the case and the preponderance of proof is in favour of the second respondent for the relief of refund of the advance sale consideration only but he is not entitled for specific performance of the agreement of sale or for that matter any damages which the second respondent herein suffered due to the non-performance of the contractual obligation of the petitioner. Accordingly the suit was decreed for a sum of Rs.40,00,000/- with 9% p.a. simple interest to be paid by the petitioner to the second respondent within one month from the date of the judgment. The relief of specific performance and damages as prayed for by the second respondent herein was dismissed.

8 Having regard to the facts and circumstances of the case, it is an admitted fact that the second respondent filed a civil suit against the petitioner and the same was partly decreed in the terms mentioned supra. Moreover, it is the specific contention of the petitioner that he gave a reply to the notice issued by the petitioner expressing his willingness to return the amount which he had received by way of advance sale consideration.

Therefore, it cannot be said that the petitioner has intention to cheat the second respondent even at the time of entering into the agreement of sale, which is the prime requirement for an offence under Section 420 IPC. Since the parties have already approached the civil Court and a decree was already passed decreeing the suit partly in favour of the second respondent. No fraudulent or dishonest inducement on the part of the petitioner to deceive the second respondent can be inferred. On examination of the entire material available on record, the matter which is essentially of civil nature has been given a cloak of a criminal offence. The ingredients required to constitute offence under Section 420 IPC are not made out from a bare reading of the material available on record. Since the petitioner had already suffered a decree in a civil court, the continuation of the present proceedings would nothing but abuse of process of the Court.

9 Accordingly, this criminal petition is allowed, quashing the proceedings against the petitioner herein in C.C.No.106 of 2014 on the file of the Court of the Principal Judicial First Class Magistrate, Jangaon.

10 Miscellaneous petitions if any pending in this criminal petition shall stand closed.

Sd/-B. SARASWATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

- To,
1. The Principal Judicial First Class Magistrate, Jangaon.
 2. The Station House Officer, Jangaon Police Station, Warangal District.
 3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
 4. One CC to Sri N HARI PRASAD, Advocate [OPUC]
 5. One CC to Sri PADMA RAO G.S. LAKKARAJU, Advocate [OPUC]
 6. Two CD Copies

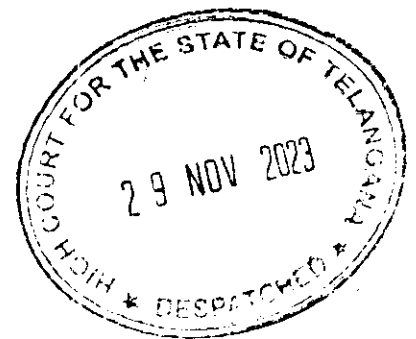
THW
CD/SD

HIGH COURT

DATED:17/10/2023

ORDER

CRLP.No.3648 of 2015



ALLOWING THE CRLP

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21/11/23
JH4