

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**WEDNESDAY THE FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 6 OF 2020

Between:

1. Mr. Sunil J. Sachdev, S/o. Jayantilal J. Sachdev, Aged about. 52 Years, Occ. Business, R/o. 3-6-175, Hyderguda, Hyderabad - 500 029.

...PETITIONER/ACCUSED

AND

1. The State of Telangana, Rep. by Public Prosecutor, High Court of Telangana at Hyderabad.
2. Y. Venugopal Rao, S/o. Venkata Subaiah. Aged. 63 Years, R/o. Flat No. 101/B, Rolin Arcade, Street No. 1, Czech Colony, Sanat hnagar, Hyderabad.

...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 the FIR No.182 of 2019 by P.S. Sultan Bazar, Hyderabad, dated 24/12/2019, against the Petitioner/ Accused, in the interest of justice.

I.A. NO: 2 OF 2020

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 of all further proceedings in FIR No.182/2019, dt 24.12.2019, pending on the file of P.S.Sultan Bazar, Hyderabad District.

(VACATE STAY PETITION)

I.A. NO: 3 OF 2022 IN CRIMINAL PETITION NO: 6 OF 2020

Between:

1. The State of Telangana, Rep. by Public Prosecutor, High Court of Telangana at Hyderabad.

....Petitioner/Respondent

And

1. Mr. Sunil J. Sachdev, S/o. Jayantilal J. Sachdev, Aged about. 52 Years, Occ. Business, R/o. 3-6-175, Hyderguda, Hyderabad - 500 029.

...RESPNDENT/ACCUSED

2. Y. Venugopal Rao, S/o. Venkata Subaiah, Aged. 63 Years, R/o. Flat No. 101/B, Rolin Arcade, Street No. 1, Czech Colony, Sanat hnagar, Hyderabad.

...RESPONDENT/COMPLAINANT

(R-2 is not necessary party)

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 vacate the stay in CrP No.6/2020 on the file of Hon'ble High Court dt 3/1/2020

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri SHARAD SANGHI ,Advocate for the Petitioner and the Public Prosecutor (TG) on behalf of the Respondent No.1 and of N.A for the Respondent No.2

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.6 OF 2020****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner – accused to quash the proceedings against him in FIR.No.182 of 2019 pending on the file of Station House Officer, Sultan Bazar Police Station, Hyderabad, filed for the offences punishable under Sections 420 and 406 of Indian Penal Code (for short 'IPC').

2. Heard the learned counsel for the petitioner, learned counsel for the 2nd respondent and learned Additional Public Prosecutor for the State. Perused the record.

3. The 2nd respondent - *de facto* complainant filed a complaint stating that his daughter by name Smt. Lakshmi Yelamanchili intended to purchase a flat from Garonda Builders and Developers situated at Pocharam Village, wherein a residential complex was built. Though the amounts were taken periodically by the petitioner, the firm of petitioner failed to hand over the possession of flat. Accordingly, the 2nd respondent approached the Telangana State

Consumer Dispute Redressal Commission by filing a consumer case vide C.C.No.239 of 2017. The Consumer Forum by order dated 24.01.2019 directed the petitioner to refund an amount of Rs.19,59,750/- along with interest @ 9% from the date of respective payments to till the date of realization of the entire amount to the 2nd respondent. However, since the amounts were not paid by the petitioner as directed by the Consumer Forum, a criminal complaint was filed on 24.12.2019 which is registered for the aforesaid offences.

4. Learned counsel for the petitioner would submit that the dispute was already adjudicated by the Consumer Forum and the question of invoking the criminal jurisdiction does not arise. He further submits that the transaction is purely civil in nature.

5. On the other hand, learned counsel for the 2nd respondent would submit that the petitioner had violated the orders of Consumer Forum and in spite of the Court order to refund the amounts, no such payment was made by the petitioner for a period of one year, which prompted the 2nd respondent to file a criminal complaint.

6. Admittedly, the petitioner intended to construct a residential complex. It is not in dispute that there was no such proposal or the petitioner had made any false claim of construction. Because the construction was delayed, the 2nd respondent had approached the Consumer Forum and the Consumer Forum had directed the petitioner to refund the amount to the 2nd respondent. The present complaint is filed by 2nd respondent one year thereafter alleging cheating and criminal misappropriation.

7. To attract an offence of cheating punishable under Section 420 of IPC, there should have been a fraudulent inducement by the accused, being induced, the complainant should have parted with property. Such intention of deceit should have been from the inception of the transaction.

8. In the present case, the complaint was filed after the Consumer Forum granting the relief of compensation. The circumstances do not make out that the petitioner had entertained any criminal intention from the inception of the transaction. Accordingly, no offences for cheating or criminal misappropriation which are punishable under Sections 406 and 420 of IPC are made out.

9. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner - accused in FIR.No.182 of 2019 pending on the file of Station House Officer, Sultan Bazar Police Station, Hyderabad, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

Sd/- N. CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The II Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad
2. The S.H.O. Central Crime Station, Hyderabad, P.S. Sultan Bazar
3. One CC to SRI. SHARAD SANGHI Advocate [OPUC]
4. Two CC to the PUBLIC PROSECUTOR, TSHC AT HYDERABAD, [OUT]
5. Two CD Copies

AA
NJB

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HIGH COURT

KSJ

DATED: 01/03/2023



ORDER

CRLP.No.6 of 2020

The Criminal Petition is
Allowed

(S) Copy
Sm
29/3/23