

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION NO: 1848 OF 2023

Between:

1. Bokka Srinivas Reddy, S/o. Late Narayana Reddy, aged about 68 years, Occ. Agriculture, R/o. H.No. 3-4, Girmapur Village, Medchal Mandal and District
2. Bokka Pushpamma, W/o. Srinivas Reddy, aged about 62 years, Occ. Housewife, R/o. H.No. 3-4, Girmapur Village, Medchal Mandal and District
3. Rahul Reddy, S/o. Narasimha Reddy, Aged 36 yrs, Occ. Business, R/o. H.No. 10-158, Gayatri Nagar, L.B.Nagar, Hyderabad.
4. P. Madhusudhan Reddy, S/o. Dayanand Reddy, Aged about 26 yrs, Occ. Business, R/o. Plot No. 42, Road No. 2, Sai Nagar Colony, Behind Swagat Hotel, Nagole, Hyderabad.

.....PETITIONERS/ACCUSED NO 1 & 4

AND

1. The State of Telangana, Rep by Public Prosecutor, High Court of Telangana Hyderabad.
2. Dasoju Srinivas Chary, S/o. Late D.S. Ramchander Rao, Aged about 45 Yrs, Occ. Business, R/o. Plot No. 5, Narturam Colony, Lai Bazar, Tirumalgiri, Secunderabad, Telangana State.

.....RESPONDENTS

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 proceedings in as CC No. 813/2020 on the file of Hon'ble XXIIth Additional Metropolitan Magistrate at Medchal, Cyberabad

I.A. NO: 1 OF 2023

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 in CC No. 813/2020 on the file of Hon'ble XXIIth Additional Metropolitan Magistrate at Medchal, Cyberabad, including appearance of the petitioners

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri D RAMAKRISHNA, Advocate for the Petitioners and the Assistant Public Prosecutor on behalf of the Respondent No.1 and of None appeared for the Respondent No. 2

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.1848 OF 2023

ORDER:

This Criminal Petition is filed by petitioners, who are accused Nos.1 to 4 in Cr.No.390 of 2016 for the offences punishable under Sections 406, 417, 419, 420, 423, 426, 427, 447, 471, 482, 506, 509 r/w 34 of IPC and the police, Medchal, Cyberabad investigated the case and filed charge sheet vide C.C.No.813 of 2020 on the file of XXII Additional Metropolitan Magistrate at Medchal, Cyberabad, to quash the same.

2. The case of the prosecution is that the complainant and his wife have purchased land admeasuring Ac.3.38 guntas in Survey No.15, situated at Girmapur village, Medchal Mandal and District, through a registered document and sale deed vide Nos.3551 of 2015, 3552 of 2015 dated 10.07.2015 for a total consideration of Rs.53,32,500/- and the complainant issued two cheques vide Nos.564085, 564086 to the accused for an amount of Rs.8,50,000/-, the complainant had made stop payments of the cheques, as the land was due for demarcation, as the complainant intimated the accused not to

present the cheques till the demarcation has been done. The further allegations of the complainant is that accused No.1 is holding land to an extent of Ac.2.35 guntas only, as per the revenue record and moreover, he sold Ac.0.12 guntas to Ram Reddy and Ac.0.55 guntas to Nagamani and Padma in the said survey No.15. The complainant also alleged that he requested to repay the amount which is taken in excess or in alternate provide another land in some other survey number. The complainant further alleged that the brother of accused No.1 namely Anji Reddy started harassing the complainant and her wife and filed suit for partition and separate possession. The complainant further alleged that accused Nos.1 to 4 have trespassed into the said sold land on 04.09.2016 and threatened the complainant and his wife with dire consequences and abused in unparliamentary language and threatened to vacate the land and taken photographs of the land without permission. The complainant demanded the accused to provide the land admeasuring Ac.1.03 guntas or repay the amount for the said extent of land as per the present market price and also demanded 24% interest per annum to avoid further complications. The complainant alleged that the

accused has cheated him and trespassed into the land and abused him, as such, police filed charge sheet vide C.C.No.813 of 2020 on the file of XXII Additional Metropolitan Magistrate at Medchal, Cyberabad.

3. The contention of the petitioners herein is that the allegation made in the complaint by the respondent No.2 does not constitute any offence and no offence is made out against the petitioners, even if the contents of the complaint taken in entirety. Therefore, the complaint is sheer abuse of process of law and as such, the proceedings are liable to be quashed and further submitted that the petitioners are no way concerned to the offences and there is not even any iota of evidence against the petitioners attracting the offences under Sections 406, 417, 419, 420, 423, 426, 427, 447, 471, 482, 506, 509 r/w 34 of IPC and they never cheated nor trespassed nor used any abusive language, as alleged by the respondent No.2 and the petitioner No.1 has bonafidely sold the property and executed registered sale deeds in favour of respondent No.2, but with a malafide intention respondent No.2 had stalled the cheques for encashment of the amount due to petitioner No.1, covered under the above sale deeds and A1 to A4 never jointly offered

to sell the above said property, as they have no authority to convey the property except petitioner/accused No.1. The proceedings in the said charge sheet are purely civil in nature. He relied on the judgment of Apex Court in **Paramjeet Batra Vs. State of Uttarkhand**¹ and further submitted that the brother of petitioner/accused No.1 had filed a suit vide O.S.No.1154 of 2015, dated 15.10.2015, much subsequent to the execution of sale deed, dated 10.07.2015. The said suit is falsely filed by the brother of the petitioner/accused No.1 only to settle his scores claiming the self acquired properties of petitioner/accused No.1, as joint family property and the said suit is contested by the petitioner/accused No.1. As such, there are no averments in the charge sheet to prove the offences. Therefore, the petitioner approached the Court to quash the proceedings and the charge sheet filed by the police.

4. The petitioner herein cheated the complainant by executing sale deed in favour of complainant and his wife vide registered document No.3551 of 2015 and sale deed document No.3552 of 2015, dated 10.07.2015 for land admeasuring an extent of Ac.3.38 guntas. Even though the accused No.1 is

¹ 2013 (11) SCC 673

holding land admeasuring Ac.2.15 guntas only and accused had executed agreement of sale for total admeasuring Ac.3.38 guntas, and sale consideration received for Ac.3.38 guntas and also got registered, but physically the land existing is only Ac.2.15 gts., thus there is shortage of Ac.1.03 guntas, thus the illegal mensrea is clearly established on the part of the accused, as knowingly all accused in conspiracy have cheated the complainant and his wife intentionally, deliberately for wrongful gain of accused. The complainant/LW1 also cautioned the accused by way of legal notice, dated 12.08.2016 to provide balance extent of land admeasuring Ac.1.03 guntas, as per accused promise, or else, to return the amount for land admeasuring Ac.1.03 guntas, as per today's prevailing market value, or with interest @ 24% per annum within 15 days or otherwise complainant shall initiate appropriate civil and criminal proceedings against all the accused, but the accused who is having knowledge of legal notice failed to reply or acted positively for the conclusion and on 4.9.2016, accused No.1 to 4 trespassed into the sold land illegally and threatened the complainant and his wife with dire consequences and abused in unparliamentary language. As

such, the police filed charge sheet against A1 to A5 for the offences punishable under Sections 406, 417, 419, 420, 423, 426, 427, 447, 471, 482, 506, 509 read with 34 of IPC.

5. Heard Sri D.Ramakrishna, learned counsel for the petitioners and learned Additional Public Prosecutor for the respondents. Even though notice was served on respondent No.2, none appeared on behalf of the respondent No.2.

6. Learned counsel for the petitioner would submit that it is purely civil in nature, as the accused No.1 herein sold and registered the land to an extent of Ac.3.38 guntas. Thereafter the brother of accused No.1 filed suit for partition vide O.S.No.1154 of 2015 stating that he is having land to an extent of Ac.1.03 guntas in the said property. The contention of the petitioner is that it is his self acquired property and his brother filed a false suit for the partition and he is seriously contesting the said suit which was not accepted by him. Therefore, it does not amount to cheating as alleged by the defacto complainant when he executed an agreement of sale for Ac.3.38 guntas and also made registration for the same extent. There are no grounds to file a criminal case for the offence under section 420 of IPC and the defacto complainant

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stop the payment of cheques to an extent of Rs.8,80,000/- though registered the land for an extent of Ac.3.38 guntas under the guise of partition suit and A2 to A4 are no way concerned with this transaction. Therefore, prayed the Court to quash the proceedings in C.C.No.813 of 2020.

7. Learned Assistant Public Prosecutor vehemently opposed the submissions made by the learned counsel for the petitioner stating that though he is not the owner of total extent of subject land, he entered into the agreement with respondent No.2. As such, there is no illegality in the charge sheet and prayed the Court to dismiss the petition.

8. Having regard to the rival submissions and material on record, the quash petition is filed by the petitioners who are arrayed as accused No.1 to 4 in the charge sheet. The contention of the complainant is that the accused No.1, who entered into an agreement of sale for Ac.3.38 guntas for a sale consideration amount of Rs.53,32,500/-, wherein 2 cheques were given by the complainant to the accused i.e. vide cheque Nos. 564085, 564086 for an amount of Rs.8,50,000/-. The complainant has intimated accused No.1 not to present the cheques till demarcation of the land and the complainant

allegations against A1 are that the land is in the name of A1 and also he entered into contract with A1 and also the allegations against A2 to A4 are that in the year 2016 they were trespassed into the land sold to him and threatened with dire consequences. Though said incident was occurred in the year 2016, he reported the same in the year 2020 and charge sheet is filed by the police in the year 2020 stating that offences against A1 to A4 prima facie shows that A1 to A4 committed offences. The statements along with the charge sheet filed by the statement of the complainant also shows that A5 is the mediator to the transaction, the only allegation against A2 to A4 is that they criminally trespassed into the land and illegally threatened him and his wife with dire consequences in unparliamentary language and also warned to vacate the land was happened in the year 2016 and no complaint was made to the police on the said dates and it is only in the year 2020 even any cheating is made only by the A1 and not by A2 to A4 and A2 to A4 are no way concerned with the property, as can be seen from the record, therefore, there is no case against A2 to A4, even if the trial is conducted, as the allegation itself is only trespass i.e. in the year 2016.

Therefore, the petition is allowed partly quashing the proceedings against A2, A3 and A4 and dismissed the petition to the extent of A1.

9. Accordingly, this Criminal Petition is partly allowed.
There shall be no order as to costs.

10. Pending Miscellaneous Applications, if any, shall stand closed.

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Sd/- K.VENKAIAH
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The XXIIth Additional Metropolitan Magistrate Medchal, Cyberabad
 2. The Station House Officer, Medchal Police Station Medchal Cyberabad
 3. One CC to SRI D RAMAKRISHNA Advocate [OPUC]
 4. TWO CCs to the PUBLIC PROSECUTOR, High Court for the State of
Telangana, at Hyderabad [OUT]
 5. Two CD Copies
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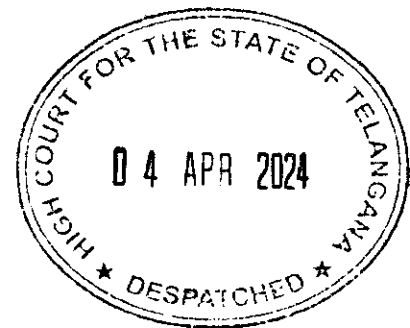
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HIGH COURT

DATED:12/03/2024

ORDER

CRLP.No.1848 of 2023



PARTLY ALLOWING THE CRIMINAL PETITION

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