

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

TUESDAY, THE THIRTIETH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 1597 OF 2019

Between:

1. B.Durga Benarji, S/o. Late B.Ranga Prasad, Aged about 48 years, Occ. Business, R/o.Plot No.230, Flat No.302, Ravindra Society, Madhapur, Ranga Reddy District. Rep. by his GPA Holder Smt.Bellamkonda Kiranmayee, W/o. B.Durga Benarji, Aged about 37 years, Occ. Housewife, R/o.Plot No.230, Flat No.302, Ravindra Society, Madhapur, Ranga Reddy District.
2. Smt.Bellamkonda Kiranmayee, W/o. B.Durga Benarji, Aged about 37 years, Occ. Housewife, R/o.Plot No.230, Flat No.302, Ravindra Society, / Madhapur, Ranga Reddy District.
3. B.Jayaram Naidu, S/o. Late B.Ranga Prasad, Aged about 43 years, Occ. Business, R/o. Plot No.249, Flat No.201, Ravindra Society, Madhapur, Ranga Reddy District.
4. Smt.B.Vimala, W/o. Late B.Ranga Prasad, Aged about 68 years, Occ. Housewife, R/o. Plot No.230, Flat No.302, Ravindra Society, Madhapur, Ranga Reddy District.
5. B.Ram Babu, S/o.K.Bangaraiah, Aged about 47 years, Occ. Govt.Employee, Office of Tirbal Corporation Marketing Developmen (Federation of India Limited, Nampally, Hyderabad).

...Petitioners/A1, A2, A3, A6 & A7

AND

1. State by Telangana, Station House Officer, Madhapur (Guttala) Police Station, Cyberabad Rep. by Public Prosecutor for the State of Telangana High Court of Telangana at Hyderabad,
2. Malneedi Mahesh S/o.M.Subba Rao, Aged about 44 years, Occ. Business, R/o. Plot NO.256, Kavuri Hills, Madhapur, Cyberabad.

...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 CC.No.3675/2018 on the file of the XXV Metropolitan Magistrate at Kukatpally, Miyapur, Cyberabad.

I.A. NO: 1 OF 2019

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.3675/2018 on the file of the XXV Metropolitan Magistrate at Kukatpally, Miyapur, Cyberabad, pending disposal of the petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri B. S.Reddy, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and for the Respondent No. 2 None appeared.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.1597 of 2019

ORDER:

1. This Criminal Petition is filed to quash the proceedings against the petitioners in C.C.No.3675 of 2018 pending on the file of XXV Metropolitan Magistrate at Kukatpally, Miyapur. The offences registered against the petitioners are under Sections 420, 506, 406, 120-B r/w 34 IPC.

2. The 2nd respondent filed a private complaint before the Court which is referred to the police for the purpose of investigation. The case of the defacto complainant is that he agreed to purchase a property standing in the name of A1 for a total consideration of Rs.4,40,00,000/-. In pursuance of the said agreement, Rs.2.00 Crores was paid to A1 in the presence of petitioners 2 to 5. A1 acknowledged the payment and issued receipts of various dates. However, A1 failed to execute the registered sale deed and also clear the bank loan as promised by him.

3. On the basis of the said complaint, case was investigated and charge sheet was filed against seven accused for the offences of cheating and criminal misappropriation.

4. Learned counsel appearing for the petitioners would submit that the transactions are purely civil in nature pertaining to the sale transaction of the property. In the event of failure to register the property, the defacto complainant has remedy to approach the Civil Court and file suit for specific performance. Only to settle civil disputes, criminal complaint was filed.

5. On the other had, it was argued on behalf of the respondents that huge amount of Rs.2.00 Crore was taken and acknowledged by A1. Apparently, the accused had intention to cheat the 2nd respondent which is evident from the fact that having received the amount, registration was not done.

6. It is an admitted fact that the property belongs to A1 and the amount of Rs.2.00 Crore was handed over to A1, for which

A1 executed receipts. In respect of petitioners 2 to 5 who are A2, A3, A6 and A7, it is stated that they were having knowledge of the transaction and also assured the defacto complainant that the property will be registered in his name.

7. It is not the case that any of the petitioners 2 to 5 have in any manner made any false statement or induced the defacto complainant into parting with the amount which was given to A1. The property stands in the name of A1 and amounts were received by A1. Only for the reason that the petitioners 2 to 5, who are close relatives of A1, they cannot be mulcted with criminal liability on the bald allegation of the petitioners 2 to 5 assuring that the property would be registered and amounts were given in their presence.

8. To attract an offence of cheating, there has to be an act of deception. Pursuant to the deception played by a person, a person should have delivered the property. There is no such allegation insofar as the petitioners 2 to 5/A2, A3, A6 and A7 are concerned.

9. In the result, the proceedings against the petitioners 2 to 5/A2, A3, A6 and A7 in C.C.No.3675 of 2018 on the file of XXV Metropolitan Magistrate at Kukatpally, Miyapur, Cyberabad, are hereby quashed. However, the trial Court shall proceed against A1.

10. Accordingly, the Criminal Petition is partly allowed. Consequently, miscellaneous applications, if any, shall stand closed.

SD/- V. KAVITHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XXV Metropolitan Magistrate at Kukatpally, Miyapur, Cyberabad
 2. The Station House Officer, Madhapur (Guttala) Police Station, Cyberabad.
 3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad, (OUT)
 4. One CC to Sri B. S. Reddy, Advocate [OPUC]
 5. Two CD Copies
- Pb/JAK

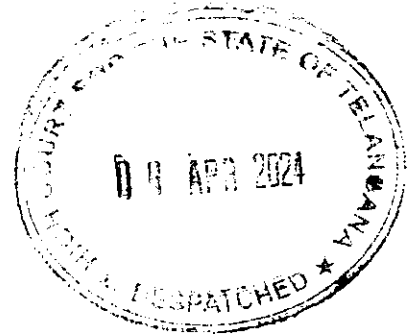
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HIGH COURT

DATED: 30/01/2024

ORDER

CRLP.No.1597 of 2019



PARTLY ALLOWING CRIMINAL PETITION

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