HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY ,THE FOURTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

I.A. NOs.5 AND 6 OF 2023
IN/AND
CRIMINAL PETITION NO: 12839 OF 2023

Between:

1. Arshad Ayub, S/o. Mohd. Ali, aged 63 years, Occupation Business, resident of Flat No. A2, Fair View Apartments, Road No. 7, Banjara Hills, Hyderabad.
2. IMADUDDIN FAROOQI, S/o.Raoofuddin Farooqi, aged about 54 years, R/o.Flat No.A2, Fair View Apartments, Road No.7, Banjara Hills, Hyderabad.
3. ASGHERI AHMED,, W/o.Naseeruddin Ahmed aged 78 years, R/o.Flat No.A2, Fair View Apartments, Road No.7, Banjara Hills, Hyderabad.

AND **...PETITIONERS/ACCUSED No.1, 2 & 4**

1. Yegnapriya Bharath, D/o. late S.Y. Govindarajan, aged about 58 years, Occupation Govt. Servant, C. I.R.D.A.I., Financial District, Nanakramguda, R/o. Plot No.39, Avanthi Nagar, Basheerbagh, Hyderabad - 500029, represented by his Special Power of Attorney Holder Suresh Nair, S/o.Late P.G.K. Nair, aged about 52 years, Occ Govt. Servant, R/o.Flat No.1005 B, Jal Vaayu Towers, Lower Tank Bund Road, Indira Park, Hyderabad - 80.

...RESPONDENT NO.1/DEFACTO-COMPLAINANT

2. The State of Telangana, through Police Station Miyapur, Cyberabad District, represented by its Public Prosecutor, High Court for the State of Telangana.

...RESPONDENT No.2/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 Criminal proceedings initiated against the Petitioner/Accused No.1, 2 and 4 herein in C.C. No.491 of 2017 on the file of Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy District at Kukatpally.

I.A. NO: 3 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 Order stay of all further proceedings in C.C. No.491 of 2017 on the

file of Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy District at Kukatpally; pending disposal of the above Criminal Petition; and pass

I.A. NO: 5 OF 2023

Between:

Yegnapriya Bharath, D/o. late S.Y. Govindarajan, aged about 58 years, Occupation Govt. Servant, C. I.R.D.A.I., Financial District, Nanakramguda, R/o. Plot No.39, Avanthi Nagar, Basheerbagh, Hyderabad - 500029, represented by his Special Power of Attorney Holder Suresh Nair, S/o.Late P.G.K. Nair, aged about 52 years, Occ Govt. Servant, R/o.Flat No.1005 B, Jal Vaayu Towers, Lower Tank Bund Road, Indira Park, Hyderabad - 80.

...PETITIONER/RESPONDENT No.1/ DEFACTO-COMPLAINANT IN IA 5 & 6

AND

1. Arshad Ayub, S/o. Mohd. Ali, aged 63 years, Occupation Business, resident of Flat No. A2, Fair View Apartments, Road No. 7, Banjara Hills, Hyderabad.
2. IMADUDDIN FAROOQI, S/o.Raoofuddin Farooqi, aged about 54 years, R/o.Flat No.A2, Fair View Apartments, Road No.7, Banjara Hills, Hyderabad.
3. ASGHERI AHMED,, W/o.Naseeruddin Ahmed aged 78 years, R/o.Flat No.A2, Fair View Apartments, Road No.7, Banjara Hills, Hyderabad.

...RESPONDENT/

4. The State of Telangana, through Police Station Miyapur, Cyberabad District, represented by its Public Prosecutor, high Court for the State of Telangana.

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 pleased to permit the Petitioner/ Respondent No.1 /Defacto-complainant and Respondent/Petitioner/Accused to file the Compromise Petition in the above Criminal Petition to compound the offences U/s.406, 409, 415, 420, 464, 468, 470, 471, r/w. 506 IPC, and thereby record the compromise and Quash the proceedings against the Respondents/Petitioner/Accused in C.C. No.491 of 2017 on the file of Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy District at Kukatpally.

I.A. NO: 6 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 record the compromise and Quash the proceedings against the Respondent/Petitioner/Accused in C.C. No.491 of 2015 on the file of Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy District at Kukatpally.

These Petitions coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri. Zeeshan Adnan Mahmood, Advocate for the Petitioners in CRLP and Respondents No.1 to 3 in I.A.No.5 & 6 of 2023, Public Prosecutor on behalf of the Respondent No.2 in CRLP and Respondent No.4 in I.A.No.5 & 6 of 2023 and of Sri. S. Pushkar Jaiswal, Advocate for the Respondent No.1 in CRLP and Petitioner in I.A.No.5 & 6 of 2023.

The Court made the following: COMMON ORDER

THE HON'BLE SMT. JUSTICE T.MADHAVI DEVI

I.A.Nos.5 and 6 of 2023
in/and
CRIMINAL PETITION No.12839 of 2023

COMMON ORDER:

It is submitted by learned counsel appearing for the petitioners as well as the respondent No.1, that during pendency of the present Criminal Petition, the parties have compromised the matter and accordingly, I.A.Nos.5 and 6 of 2023 have been filed to record the compromise between them and to compound the offences.

2. Vide order dated 27.12.2023, this Court directed the parties along with their respective counsel to appear before the Secretary, High Court Legal Services Committee, High Court for the State of Telangana, Hyderabad, for identification and to submit a report.

3. Pursuant to the above said direction issued by this Court, the parties have appeared and the Secretary, High Court Legal Services Committee, has identified the parties and submitted a report, dated 29.12.2023 and the same is placed on record.

4. In view of the above, I.A.Nos.5 and 6 of 2023 are allowed. Consequently, this Criminal Petition is allowed and the proceedings in C.C.No.491 of 2017 on the file of the Principal Junior Civil Judge-cum-VIII Additional Metropolitan Magistrate, Ranga Reddy District at Kukatpally against the petitioners/accused Nos.1, 2 and 4 are hereby quashed subject to their paying an amount of Rs.5,000/- (Rupees Five Thousand Only) to the Director, Sainik Welfare, Hyderabad (Savings A/c.No.52188926279, State Bank of India, Shantinagar Branch (20070), IFSC Code :SBIN0020070, MICR No.500004057) and Rs.5,000/- (Rupees Five Thousand Only) to the Telangana High Court Advocates Association, Hyderabad, within a period of two (02) weeks from today and file proof of the same before the Registry.

Miscellaneous applications, if any pending, shall stand closed.

SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Junior Civil Judge-cum-VIII Additional Metropolitan Magistrate, Kukatpally, R.R. District.
2. The IX Metropolitan Magistrate, Kukatpally, at Miyapur, Cyberabad.
3. The Station House Officer, Police Station Miyapur, Cyberabad District.
4. One CC to Sri. Zeeshan Adnan Mahmood, Advocate [OPUC].
5. One CC to Sri. S. Pushkar Jaiswal, Advocate [OPUC]

6. Two CCs to Public Prosecutor, High Court for the State of Telangana at Hyderabad[OUT].
7. Two CD Copies.

Jak

Along with a copy of Joint Memo of Compromise

NOTE: Amount paid by SRI. ZEESHAN ADNAN MAHMOOD, Counsel for the Petitioner towards Costs of Rs. 5,000/- (Rupees Five thousand only) directed by the Hon'ble Court, dated 04-01-2024 to the Director, Sainik Welfare, Hyderabad (Savings A/c.No.52188926279, State Bank of India, Shantinagar Branch (20070), IFSC Code: SBIN0020070, MICR NO.500004057 and an amount of Rs.5,000/- and filed Memo of Proof of Compliance USR.No.7429 of 2024 dated: 25-01-2024.

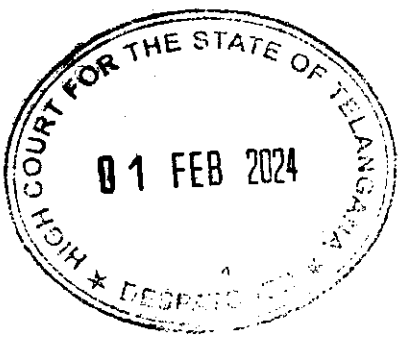
NOTE: Amount paid by SRI. ZEESHAN ADNAN MAHMOOD,, Counsel for the Petitioner towards Costs of Rs. 5,000/- (Rupees Five thousand only) directed by the Hon'ble Court, dated 04-01-2024 to the Telangana High Court Advocates Association, Hyderabad and an amount of Rs.5,000/- and filed Memo of Proof of Compliance USR.No.7429 of 2024 dated: 25-01-2024.

HIGH COURT

DATED:04/01/2024

COMMON ORDER

I.A. NOs.5 AND 6 OF 2023
IN/AND
CRLP.No.12839 of 2023



CRIMINLA PETITION IS ALLOWED

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1/2/24

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

I.A. No. 5 of 2023
in

Crl.P. No. 12839 of 2023

Between:

YEGNAPRIYA BHARATH, Daughter of late S.Y. Govindarajan, aged about 58 years, Occupation: Govt. Servant, C/o. I.R.D.A.I., Financial District, Nanakramguda, R/o. Plot No.39, Avanthi Nagar, Basheerbagh, Hyderabad - 500029, represented by his Special Power of Attorney Holder Suresh Nair, S/o.Late P.G.K. Nair, aged about 52 years, Occ: Govt. Servant, R/o.Flat No.1005 B, Jal Vaayu Towers, Lower Tank Bund Road, Indira Park, Hyderabad – 80.

...Petitioner/Respondent No.1/Defacto-Complainant

AND

1. ARSHAD AYUB son of Mohd. Ali, aged 63 years, Occupation: Business, resident of Flat No. A2, Fair View Apartments, Road No. 7, Banjara Hills, Hyderabad.

2. IMADUDDIN FAROOQI, S/o.Raoofuddin Farooqi, aged about 54 years, R/o.Flat No.A2, Fair View Apartments, Road No.7, Banjara Hills, Hyderabad.

3. ASGHERI AHMED, W/o.Naseeruddin Ahmed aged 78 years, R/o.Flat No.A2, Fair View Apartments, Road No.7, Banjara Hills, Hyderabad.

...Respondents/Petitioners/Accused No.1, 2 & 4

4. THE STATE OF TELANGANA, through Police Station Miyapur, Cyberabad District, represented by its Public Prosecutor, High Court for the State of Telangana.

...Respondent/Respondent No.2/Complainant

JOINT MEMO

TO PERMIT THE PETITIONER/ACCUSED AND THE RESPONDENT No.1/DEFACTO-COMPLAINANT TO COMPOUND THE OFFENCES IN C.C. NO.491 OF 2017 ON THE FILE OF PRINCIPAL JUNIOR CIVIL JUDGE-CUM-VIII ADDL. METROPOLITAN MAGISTRATE, RANGA REDDY DISTRICT AT KUKATPALLY

MAY IT PLEASE YOUR LORDSHIP,

1. It is submitted that according to the P.S. Miyapur, Cyberabad District, they received a Private referred Complaint from the Learned IX Metropolitan Magistrate, Cyberabad from the Respondent No.1/Defacto Complainant on 01.08.2015 against the Petitioners/Accused No.1, 2 & 4 herein and others.

2. That on receipt of the said referred complaint from the Hon'ble Court, the P.S. Miyapur, Cyberabad District, registered a case on 01.08.2015 and issued F.I.R No.495 of 2015 against the Petitioners/Accused herein for the alleged offences U/s.406, 409, 415, 420, 464, 468, 470, 471, r/w. 506 IPC.

3. It is submitted that a Chargesheet vide C.C. No.491 of 2017 was filed on the file of the Hon'ble IX Metropolitan Magistrate, Kukatpally, at Miyapur, Cyberabad. It is submitted that thereafter the case was transferred to Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy Dist. at Kukatpally.

4. That the Petitioner/Accused No.1 herein is a former Indian cricketer who played in 13 Test matches and 32 One Day Internationals from 1987 to 1997. In January 2010, he became the manager for the Indian Cricket team for the series held in Bangladesh and for the world cup 2015 in Australia. He is the former president of HCA. That the

Petitioners/Accused herein hails from respectable families having roots in the society and have been working for the betterment of the society.

5. It submitted that one M/s. B.K. Oakwood Estates, a partnership firm which is represented by the Petitioner No.1 herein had entered into (i) a Development Agreement cum General Power of Attorney dated 17.02.2005, registered as Document No. 1861 of 2005 of the office of Joint Sub Registrar, Ranga Reddy District; (ii) Development Agreement cum General Power of Attorney dated 31.03.2007, registered as Document No.14618/2007 of the office of the Joint Sub Registrar, R.R. District; (iii) Development Agreement cum General Power of Attorney dated 30.06.2007 for the development of land admeasuring Acres 3-34 Guntas in Survey Nos. 28, 34, 35, 36, 37 and 37-A, situated at Maktha Mahboobpet Village, Serilingampally Manda and Municipality, Ranga Reddy District.

6. It is submitted that the terms of the Development Agreement cum General Power of Attorney, 38.5% of the total constructed area together with corresponding undivided share of land was to be owned and possessed by the land owners namely Sardar Trilok Singh Pishoria and Sadhana Kaur and the balance 61.5% of the total constructed area was to be vested with B.K. Oakwood Estates.

7. It is submitted that pursuant to the Development Agreement, the said M/s. B.K. Oakwood Estates, represented by the Petitioner No.1 herein obtained sanction from the Municipal Commissioner, Serilingampally Municipality, Ranga Reddy District vide Proceedings No.G/1327/BP/595/2007, dated 31.03.2007 for constructing residential apartments consisting of two cellars, Ground and Upper Floors, which complex was to be named as 'Sky City' and commenced construction thereon.

8. It is submitted that in terms of the Development Agreement the said M/s. B.K. Oakwood Estates, represented by the Petitioner No.1 herein and the Land Owners had demarcated and allotted themselves the residential flats/parking spaces and the same was reduced into writing on 12.02.2008.

9. It is submitted that the Respondent No.1/Defacto Complainant herein after having satisfied herself about the title etc., in respect of the proposed project, had entered into an Agreement of Sale on 06.04.2013 for purchasing Flat No.406, on the Fourth Floor, Block A (1) in the building complex known as 'Sky City', admeasuring 1795 Sq. Feet (including common area) and two Car Parking Spaces along with an undivided share of land admeasuring 57 Sq. Yards, for a total sale consideration of Rs.41,69,683/-.

10. It is submitted that in pursuance of the said Agreement the Respondent No.1/Defacto Complainant is due for a sum of Rs.6,29,500/-.

11. It is submitted that while matter stood thus, disputes arose between the parties and the said Flat has not been registered in favour of the Respondent No.1/Defacto Complainant.

12. It is submitted that while things stood thus, the Petitioners/Accused herein came to know that, the Respondent No.1/Defacto complainant has filed a Complaint on 01.08.2015 against them wherein an FIR was registered against Petitioners/Accused herein and others by the Respondent No.2 herein vide F.I.R.No.495 of 2015 dated 01.08.2015 for the alleged offences U/s.406, 409, 415, 420, 464, 468, 470, 471, r/w. 506 IPC.

13. It is submitted that the other Petitioners herein i.e., the Petitioner No.2 & 3 herein could not sign the Memorandum of Compromise entered

between the Petitioner No.1 and the Defacto Complainant herein due to non-availability and as such they are signing the Joint Memo filed before this Hon'ble Court.

14. It is submitted that on the intervention of elders, well-wishers and friends, the Petitioners/Accused herein and the Respondent No.1/Defacto- Complainant have settled their disputes out of Court amicably for which a Memorandum of Compromise is also filed herewith and as such there is no likelihood of any further litigation.

15. It is submitted that the Petitioner No.1 herein and the Defacto Complainant entered into a Memorandum of Compromise dated 01.02.2023 wherein the parties thereto on certain terms and conditions i.e., that M/s. Oakwood Estates, represented by the Petitioner No.1 herein, would register Flat No.406, on the Fourth Floor, Block No.A in the building complex known as 'Sky City', admeasuring 1795 Sq. Feet (including common area) and two Car Parking spaces along with an undivided share of land admeasuring 57 Sq. Yards, situated at Maktha Mahboobpet Village, Serilingampally Mandal and Municipality, Ranga Reddy District in favour of the Defacto Complainant on receipt of a sum of Rs. 3,14,750/- (being 50% of the amount due) and the Defacto Complainant would take steps to withdraw the Criminal Case filed against the Petitioners herein i.e., the partners (both present and erstwhile) being Crime No. 495 of 2015, subsequently numbered as C.C No.491 of 2017 pending on the file of the Hon'ble Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy District at Kukatpally and other complaints if any, and similarly the Petitioners would drop the defamation cases filed by it against the Defacto Complainant.

Therefore, the Petitioner/Respondent No.1/Defacto-Complainant and the Respondent/Petitioner/Accused herein prays this Honorable Court

to permit them to compound the offences U/s.406, 409, 415, 420, 464, 468, 470, 471, r/w. 506 IPC and thereby record the compromise and Quash the proceedings against the Petitioner/Accused in C.C. No.491 of 2017 on the file of Principal Junior Civil Judge-cum-VIII Addl. Metropolitan Magistrate, Ranga Reddy District at Kukatpally; and pass such other order or orders as this Hon'ble Court deems fit and proper in the interest of justice.

Petitioner/Accused No.1

Petitioner/Accused No.2

Petitioner/Accused No.4

Respondent No.1/De-facto Complainant

Counsel for Petitioners/Accused

Counsel for Respondent No.1/De-facto Complainant

Place: Hyderabad

Date: 10/11/23