

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**FRIDAY THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION NO: 14447 OF 2025

Between:

1. Rayeesa Begum, W/o. Mohammed Naseeb Khan Aged about 38 years, Occ. Household, R/o. Hon. No. 18-12- 418/ 10/1/B/27/A, Hafeez baba Nagar, Bandlaguda, Hyderabad
2. Mohammed Naseeb Khan, S/o. Late Mohammed Rasheed Khan Aged about 45 years, Occ. Business R/o. Hon. No. 18-12-418/10/1/B/27/A, Hafeez baba Nagar, Bandlaguda, Hyderabad

...PETITIONER/ACCUSED

AND

1. The State of Telangana, Rep. by Its Public Prosecutor, High Court Buildings
2. Sayeed Bin Ahmed Saadi, S/o. Ahmed Bin Hasham Saadi, Aged About 39 years, Occupation Business, R/o. H No. 18-11-67/A/45/G/33, Salala Barkas, Chandrayangutta, Bandlaguda, Hyderabad, TS.

...RESPONDENT/COMPLAINANTS

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to allow the Criminal petition thereby quashing Crime No. 157 of 2025 dt. 24-10-2025 U/ Sec. 316 (2) and, 318 (4) BNS on the file of P.S. Kanchanbagh in the interest of justice.

I.A. NO: 2 OF 2025

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings in pursuance to Crime No. 157 of 2025 dt. 24-10-2025 U/ Sec. 316 (2) and, 318 (4) BNS on the file of P.S. Kanchanbagh in the interest of justice.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri MIR MASOOD KHAN Advocate for the Petitioner and Additional Public Prosecutor on behalf of the Respondent No1, and none appear for the Respondent No2,

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL PETITION No.14447 OF 2025

ORDER:

This Criminal Petition is filed by the petitioners-accused seeking to quash the proceedings against them in Crime No.157 of 2025 of Kanchanbagh Police Station, Hyderabad, registered for the offences under Sections 316(2) and 318(4) of BNS.

2. Heard Sri Mir Masood Khan, learned counsel for the petitioners and Sri Jithender Rao Veeramalla, learned Additional Public Prosecutor for respondent No.1-State.

3. Learned counsel for the petitioners submitted that the matter is purely of civil in nature and that it revolves around an agreement of sale. For execution of the Sale Deed, respondent No.2-*de facto* complainant can file a Suit for specific performance, but he has resorted to file the present complaint. The mere allegation is that the petitioners have taken advance sale consideration and have not registered the land in the name of the *de facto* complainant. For the said simple allegation, the present complaint need not be lodged. He, therefore, prayed to quash the proceedings in the present crime against the petitioners herein.

4. Learned Additional Public Prosecutor submitted that it is alleged that petitioner No.2 herein has entered into an agreement of sale with the *de facto* complainant and subsequently, he has gifted away some property to his wife i.e., petitioner No.1, to avoid execution of Sale Deed in favour of the *de facto* complainant. He, therefore, prayed to dismiss the Criminal Petition.

5. Perused the record.

6. The offences alleged against the petitioners are under Sections 316(2) and 318(4) of BNS. The said Sections are extracted hereunder for the sake of reference.

"316. Criminal breach of trust.-

(1) xxx

(2) Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

318. Cheating –

(1) xxx

(2) xxx

(3) xxx

(4) Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

7. The allegations made in the complaint are to the effect that petitioner No.2 has taken advance amount of sale consideration from the *de facto* complainant and has failed to register the land in his name. To attract the offence under Section 316(2) of BNS, the petitioners must have been entrusted with the property and they must have put the property to their own use. This is not the case where the *de facto* complainant has entrusted the petitioners with some property. The *de facto* complainant has paid advance sale consideration expecting the land to be registered in his name. The *de facto* complainant should also show as to how the petitioners misappropriated the said amount. The said element does not attract the offence under Section 316(2) of BNS against the petitioners herein. So also, the offence under Section 318(4) of BNS does not attract against the petitioners herein. If the said offence has to be attracted, it should be made out that the petitioners entertained dishonest intention from the inception of crime. In the present case, the agreement of sale is dated 29.10.2022, while the Gift Deed is alleged to be executed on 14.06.2023. Thus, it cannot be said that petitioner No.1 entertained dishonest intention as on the date of entering into the agreement of sale. It is not the case of the *de facto* complainant that as on the date of agreement of sale, the subject

land was not in existence. The petitioners' counsel contends that a civil case has been turned into a criminal litigation by lodging the present complaint. He further submitted that the agreement of sale is dated 29.10.2022 and since the limitation period is exhausted, the *de facto* complainant has not filed any civil suit and he has resorted to file the present case. But, it is to be observed that the complaint is lodged on 24.10.2024, which is very much within three years. Thus, the *de facto* complainant could as well file a civil Suit. Since the ingredients of the offences alleged do not get attracted against the petitioners herein, the continuation of proceedings against the petitioners could be an abuse of process of law. Therefore, the proceedings in the present crime deserve to be quashed.

8. Accordingly, the Criminal Petition is allowed and the proceedings in Crime No.157 of 2025 of Kanchanbagh Police Station, Hyderabad, are hereby quashed against the petitioners herein.

Miscellaneous Petitions pending, if any, shall stand closed.

C.DEEPIKA

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VII Additional Chief Judicial Magistrate at Hyderabad
2. The Station House Officer, Police Station Kanchanbagh, Hyderabad
3. One CC to SRI. MIR MASOOD KHAN Advocate (OPUC)

4. Two CC to SRI. PUBLIC PROSECUTOR High court for the state of
Telangana at Hyderabad [OUT]

5. Two CD Copies

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HIGH COURT

DATED:28/11/2025

ORDER



CRLP.No.14447 of 2025

CRLP IS ALLOWED

⑧
kpr
15/12/25