09.07.2021
Complainant
For orders

ORDER

This is a complaint filed under section 200 of Code of Criminal Procedure (hereinafter referred as Cr.P.C.) for the offence punishable under sections 120-B, 405, 406, 409, 415, 420, 421, 503, 506 and 509 read with section 34 of Indian Penal Code (hereinafter referred as IPC).

2. My predecessor in office after hearing the complainant taken cognizance for the offence punishable under sections 409, 420, 503 and 506 of IPC and posted the case for recording of sworn statement of complainant.

3. The complainant is examined herself as CW1 and he got marked Ex.C.1 to Ex.C.13 and closed her sworn statement.

4. The case is posted for hearing on taking cognizance of the offences.

5. I heard advocate for complainant and perused all materials on record.

6. Complainant in her complaint, sworn statement and argument contended and argued that her husband S.S. Suresh Babu is a member of accused No.1 – Bank. In the course of business M.S.papanna

availed loan from accused No.1 bank by pledging title deeds of his commercial complex consisting several shops. M.S.Papanna failed to repay the loan amount and accused No.1 bank had filed Crl. Misc. 1127/2009 under Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002 for recovery of dues from M.S.Papanna. The accused No.1 bank had taken the possession of property of the M.S.Papanna with the help of police through the Hon'ble I Addl. Metropolitan Magistrate order dated 14.01.2011. Mr.Papanna approached the DRT in S.A. No.301/2011 and DRT affirmed the action of accused No.1 bank through its order dated 16.06.2011. The accused No.1 bank and its officials approached the husband of complainant and insisted to purchase the property and complainant agreed to purchase the property bearing No.6 in the ground floor comprising in property No.5, 5/1, 6, 7, 8, and 8/1 at Natakaratna Gubbi Veeranna Road, Bengaluru. After negotiation with accused No.1 Bank and M.S.Papanna complainant purchased the said property through the registered sale deed dated 08.03.2013 which is executed by M.S.Papanna and consented by accused No.1 bank and also signed accused No.4 as a witness to it for total sale consideration of Rs.19,00,000/-. For the purchase of said property availed the loan from the accused No.1 Bank by mortgaging the property of father of complainant by name S.Jayakumar. In the said sale deed Ex.C.1 it is stated that possession is handed over to the complainant but in fact physical possession of the property is not handed over to the complainant. It is the duty of the accused No.1 to deliver actual physical possession to the complainant. But accused No.1 from the date of purchase i.e. 18.03.2013 to till this day has not delivered the possession of the said property. The complainant availed loan from the financial institutions at the rate of 4% per annum i.e. 48% p.a. + GST for purchase of the said property only with an intention to earn the livelihood from the said property by starting the business in it. The complainant approached the accused No.1 bank at several time and gave several representations as per Ex.C.2 to Ex.C.6. But till this day the accused No.1 Bank and its President, Vice President, Secretary and Directors have not bothered to deliver the possession of the said property. The complainant also in the Annual General Body Meetings No.89 and 90 represented and gave representation to the accused No.1 Bank but accused No.1 Bank and its President, Vice President, Secretary and Directors have not bothered to deliver the physical possession of the property and produced the Ex.C.7 and 8 proceedings of Annual General Body Meetings No.89 nad 90. The complainant also approached the Joint Director of Co-operative society and eh also issued directions and orders to the accused No.1 bank to give the physical possession of the said purchased property as per Ex.C.9 to Ex.C.11 but the accused have not bothered about the directions and orders. The complainant also approached to the Regional Manager, Reserve Bank of India about the acts of accused persons as per Ex.C.12 but she did not get any remedy till this day. Hence, accused persons as per Ex.C.1 sale deed received the entire sale consideration amount from the complainant and consented for the sale of said property and also accused No.4 signed as a witness to it but till this day even after directions and orders from the Joint Director, Karnataka Co-operative Society to deliver the possession of the property. It is also stated that, accused have played mischief with lot of people and swindled Lakhs of rupees from so many persons. It is also stated that, accused have used filthy language and threatened the complainant and outraged her modesty. Hence, looking at the contents of complaint and Ex.C.1 to Ex.C.12 at this stage of the case complainant has made prima facie case against the accused persons. Hence, in the present case in order to ascertain who are actually involved in the said offence it requires further and forensic investigation which can be done by Investigating Officer. Hence, this will saves the valuable time of the court. Hence, under such circumstance this court is of opinion to direct the Investigating Officer to investigate the case and submit report under section 202 of Cr.P.C. which will help the court to decide the case on merits. Hence, on perusal of all these materials on record it is necessary to refer the matter for investigation and call for report of Investigating Officer to decide the case on merits. Hence, I pass the following :

PCR 13154/2020

ORDER

Acting under section 202 of Code of Criminal Procedure the matter is referred to the SHO, V.V.Puram Police Station to investigate and submit his report.

IV Addl. CMM, Bengaluru.