

Order below exh.17 in RCC No. 46/2017

1. The present application moved by the accused no.2 contending that, the accused no.1 and 2 alleged for the offence p.u.s.420, 465, 467, 468, 471 r.w.34 of the Indian Penal Code. But, there is no any prima facie evidence against the accused no.2 to put the charge against the accused no.2. Accused no.2 infected by HIV. Accused no.2 given consent to the document dtd.12.11.2012. The transaction taken place between the complainant and accused no.1. From the transaction accused no.2 has not taken any wrongful gain. The evidence produced on record doesn't show involvement of accused no.2, hence prayed for discharge of accused no.2 from alleged sections of The Indian Penal Code vide section 239 of The Code of Civil Procedure.

2. On the contrary Ld.APP has filed say at exh.19 and contended that as the accused no.2 has given consent to the transaction she has having full knowledge about the transaction dtd.12.10.2012. Alongwith the charge-sheet the deed dtd.12.10.2012 has produced which shows the consent of the accused no.2 to the present deed. Hence, prayed to reject the same.

3. Heard Ld.Advocate M.S.Shanbhag for the accused no.2 and Ld.APP S.S.Yadav for the State. As per the contention and argument of the accused they have produced medical certificate alongwith exh.27 which shows that she is under the

treatment of anti retro viral treatment. On perusal of the documents alongwith the charge-sheet, it reveals that block no.507 in the name of accused no.1. The sale deed dtd.18.09.2008 has taken place between Yashodabai Jadhav and accused no.1 through Siddheshwar Kakaso Gaikwad. Again on 09.11.2012 the sale deed has taken place between Dadaso Mahadev Sathe and accused no.1. The accused no.2 has given her consent to the sale deed dtd.09.11.2012. After the minute observation on the documents on record the complaint lodged by the complainant shows that the consideration for the sale deed has been taken by the accused no.1 and 2. Therefore, prima-facie charge-sheet and documents alongwith the charge-sheet are sufficient to show the involvement of the accused no.2 in the present matter. The documents produced by the accused no.2 for her treatment are the separate part of her life. As she is under the treatment is not the reason to discharge her from the present matter. As consider present matter it involves civil as well as criminal dispute. Prima-facie all evidence on record shows the involvement of the accused no.2 for the consideration and giving a consent to the second sale deed. Therefore, I am of the view that, accused no.2 also involved as per section 34 of The Indian Penal Code for the alleged offences p.u.s.420, 465, 467, 468, 471 of The Indian Penal Code, hence following order.

ORDER

1. Application is rejected.

Vita

Date:- 06/07/2018.

Sd/-

(G.P.Bankar)

Judicial Magistrate,F.C., Vita.