

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE THIRD DAY OF APRIL

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

CRIMINAL PETITION NO: 15488 OF 2024

Between:

1. Mohammed Yousuf Qureshi Occ.Business, R/o.H.No.16-7-311/1, Azampura, Hyderabad.
2. Mohammed Aslam Qureshi, Occ.Business, R/o.H.No.16-7-311/1, Azampura, Hyderabad.
3. Smt.Farzana Begum, D/o.Mohammed Yousuf W/o Mohammed Azmath Occ. Household, R/o.H.No.17-5-560, Dabeerpura, Charminar, Hyderabad.
4. Mohammed zaffar Iqbal Qureshi, S/o. Mohammed Yousuf Qureshi, Occ.Business, R/o.H.No.16-7-311/1, Azampura, Hyderabad.
5. Mohammed Mubasheer Ahmed, S/o Mohammed Azmath, Occ. Student, R/o.H.No.17-5-560, Dabeerpura, Charminar, Hyderabad.

Petitioners/Accused No.1 to 5

AND

1. The State of Telangana, Rep. by its Public Prosecutor Through P.S. Musheerabad, High Court, Hyderabad.
2. Ms. Meherunnisa D/o. Late Abdul Rasool, Occ. Household, R/o.H.No.5-6-120, Namaaz Ground, Char Khandil, Aghapura, Hyderabad.

Respondents/Defacto Complainant

Petition under Section 528 of B.N.S.S., praying that in the circumstances stated in the grounds filed in support of the Criminal Petition, the High Court may be pleased to quash the CC No.3484/2023 pending on the file of XVIII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad against the Petitioners/Accused Nos.1 to 5 in the interest of justice;

IA NO: 1 OF 2024

Petition under Section 528 of B.N.S.S. praying that in the circumstances stated in the grounds filed in support of the Criminal petition, the High Court may be pleased to stay all further proceedings of CC No.3484/2023 pending on the file of XVII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad including the appearance of the Petitioners/Accused Nos.1 to 5 pending disposal of CRLP No.15488 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of SRI M A BASITH Advocate for the Petitioners, Assistant Public Prosecutor for the Respondent No.1, the Court made the following.

ORDER

This criminal petition is filed to quash the proceedings in C.C.No.3484 of 2023 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

On the basis of a complaint, an FIR bearing No.6 of 2023 came to be registered on 02.01.2023 at Musheerabad Police Station, Hyderabad under Sections 420, 406, 441, 468, 471, 477, 511, 506, 120(B) r/w 34 of IPC, 25(1)(A) of Arms Act and 156(3) Cr.P.C.

The gist of the complaint is that respondent No.2 is the owner of house property bearing Municipal No.1-7-501/J, admeasuring 85.75 Sq. yds. situated at Zamistanpur, Musheerabad, Hyderabad acquired by way of registered sale deed dated 15.07.1985. That accused No.1 is the uncle of complainant and accused Nos.2 to 5 are relatives. That her uncle used to take care of the said property and he used to collect rents and pay to respondent No.2. That in the first week of September, 2022, when the complainant went to the said property for collecting of rents along with her sister, accused Nos.1 to 5 abused her in filthy language, man-handled her and tried to hit her with rods. That when encumbrance certificate was obtained by complainant, she was surprised that a Registered Gift Deed vide Doc.No.880 of 2022 dated 02.02.2022 is executed by accused No.2 in favour of accused No.3. It is stated in the

complaint that on the basis of an Oral Hiba, dated 15.02.2012, property is said to have been gifted in favour of accused No.1, (to which accused No.5 is the witness). It is further stated that when the complainant questioned about the fraudulent acts, accused again abused in vulgar language and attempted to hit her with iron rods. That this incident occurred on 15.11.2022. Hence, the complaint.

Charge sheet is filed and in the charge sheet, after investigation the following Sections are laid out: 420, 406, 506, 120(B) r/w 34 of IPC and 156(3) of Cr.P.C.

Learned counsel for petitioners placed reliance upon the judgment of Hon'ble Apex Court in *Delhi Race Club (1940) Ltd. and others v. State of Uttar Pradesh and another*¹ and relied upon the judgment of a learned Single Judge of this Court (Telangana and Andhra Pradesh High Court) in *Dondapati Srinivasa Rao and others v. State of Telangana and another*².

It is submitted by learned counsel for petitioners that allegations in the complaint are baseless and no overt acts are attributed to accused Nos.1 to 5. It is further submitted that the complaint was lodged in the month of January, 2023, the incident said to have been taken place in the month of September, 2022, that there is no explanation for the delay. It is submitted that if she was threatened in the month of September, 2022, there was no reason for her to kept quiet till November, 2022. It is also submitted that if there was a quarrel in November, 2022, no reason is forthcoming why complaint is lodged in the month of January, 2023. It is submitted that the delay in lodging the complaint indicates that it is a false and frivolous complaint, only to implicate the petitioners who are owners and possessors of the property.

Notice was permitted to be taken on respondent No.2 by learned counsel for petitioners. A copy of tracking report is placed on record and it is observed from the tracking report that notice is delivered on 27.03.2025 vide track consignment No.RN164950726IN.

¹ CrI.A.No.3114 of 2024, dated 23.08.2024

² 2018(1) Andh LD (Criminal) 970

On the other hand, learned Assistant Public Prosecutor submitted that there are allegations that accused Nos.1 to 5 abused respondent No.2 in filthy language and also tried to beat her with rods and the same is reflected in the charge sheet. That no interference is necessitated at this stage and proceedings be permitted to continue.

Heard learned counsels, perused the record and considered the rival submissions.

Complaint is dated 02.01.2023. It is averred in the complaint that complainant approached the concerned Police Station and that Police refused to register the FIR. Hence, complaint came to be addressed under Section 200 Cr.P.C. to the XVII Additional Chief Metropolitan Magistrate, Nampally and FIR No.6 of 2023 came to be registered on directions.

The private complaint is dated 13.12.2022 by docket order dated 15.12.2022, the same is referred to Musheerabad Police Station for investigation under Section 156(3) of Cr.P.C. It is observed from the complaint that the incident seems to have occurred on 15.11.2022 and a private complaint is lodged on 13.12.2022. In Paragraph No.8 of the complaint addressed to the Magistrate, it is stated that complainant lodged a complaint with Musheerabad Police Station and ACP Chikkadpally through RPAD, but no action has been taken. Neither the details of such RPAD complaint are reflected in the complaint nor date of the complaint is reflected.

It is defies the logic of this Court as to why the complainant kept quiet, when she was threatened in the month of September, 2022 when she went for collection of rents. It is also observed that there is an allegation that complainant was not paid rents for one year. No reasons are offered as to why she kept quiet for a period of one year, if she was not receiving the rents. Incident occurred on 15.11.2022, except making bald statements in the complaint that she has addressed her grievance to Musheerabad Police Station and ACP, Chikkadpally through RPAD, no details are forthcoming.

On consideration of the entire factual matrix of the case and on perusal of the records, it is inferred that the case is predominantly civil in nature (with regard to property dispute).

Learned counsel placed reliance upon the judgment of Hon'ble Apex Court in *Delhi Race Club (1940) Ltd. and others v. State of Uttar Pradesh and another (1 supra)* and invited the attention of this Court to Paragraph Nos.29 and 30 and contended that to attract the offence of cheating, dishonest intention starts with inception of transaction. That for criminal breach of trust the property must have been entrusted to the accused or must have dominion over it. It is contended that the ingredients of the Sections are not made out in the complaint.

Having perused the entire record, this Court is of the considered opinion that interest of justice would be met, if the proceedings in C.C.No.3484 of 2023 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad be stayed.

There shall be stay of proceedings in C.C.No.3484 of 2023 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad for a period of Four (04) weeks.

Post on 01.05.2025.

//TRUE COPY//

SD/-T.TIRMULA DEVI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad
2. The Station House Officer, Police Station Musheerabad, Hyderabad.
3. Ms. Meherunnisa, D/o. Late Abdul Rasool, Occ. Household, R/o.H.No.5-6-120, Namaaz Ground, Char Khandil, Aghapura, Hyderabad. (by RPAD)
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad (OUT)
5. One CC to SRI M A BASITH Advocate [OPUC]
6. One spare copy

HIGH COURT

JAK,J

DATED:03/04/2025

Post on 01.05.2025

ORDER



CRLP.No.15488 of 2024

STAY