

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

\*\*\*\*\*

**Criminal Petition No.1827 OF 2021**

Between:

Lamba Anand& 3 others

... Petitioners/A2 to A5

And

1. M. Ramesh Yadav

... Respondent/Defacto Complainant

2. The State of Telangana,  
Rep. by its Public Prosecutor ,  
High Court for the State of Telangana,  
Hyderabad.

...Respondent

DATE OF JUDGMENT PRONOUNCED : 26.09.2023

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

- |  |        |
|--|--------|
| 1 Whether Reporters of Local newspapers may be allowed to see the Judgments?   | Yes/No |
| 2 Whether the copies of judgment may be marked to Law Reporters/Journals       | Yes/No |
| 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

---

***K.SURENDER, J***

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.P. No. 1827 of 2021**

% Dated 26.09.2023

# Lamba Anand & 3 others

... Petitioners/A2 to 5

And

\$ 1.M. Ramesh Kumar Yadav

...Respondent/Defacto complainant

2.The State of Telangana,  
Rep. by its Public Prosecutor ,  
High Court for the State of Telangana,  
Hyderabad.

... Respondent

**! Counsel for the Petitioner:** Sri T.Bala Mohan Reddy

**^ Counsel for the Respondents:** Sri Padala Pravin Kumar  
&  
Public Prosecutor

**>HEAD NOTE:**

**? Cases referred**

- 1 (2023) 5 Supreme Court Cases 360
  - 2(2019) 9 Supreme Court Cases 148
  - 3.(2012) 10 SCC 303
  - 4.(2022) 7 Supreme Court Cases 124
  - 5.(2000) 4 SCC 168
-

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL PETITION No.1827 OF 2021****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/A2 to A5, to quash the proceedings against them in C.C.No.4723/2020 on the file of IV Metropolitan Magistrate-cum-IV Additional Civil Junior Judge at L.B.Nagar, Cyberabad. The offences alleged against them are under Sections 120(b), 383, 406, 420 and 506 r/w.34 of the Indian Penal code.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent – State.

3. The 1<sup>st</sup> respondent filed complaint stating that he is the Managing Director of M/s.RRK Property Assets Private limited and also Managing Director of SAANWI Housing Private Limited; and that Accused No.1 was working as a Liasoning Assistant Officer. A1 took these petitioners who are A2 to A5 to the office and introduced them as owners of the land and they were ready to give the land for development. Accordingly, the petitioners 2 to 5 and others who are joint family members of the Lamba family entered into an agreement-cum-Memorandum of understanding. In all, six

Memorandum of Understandings were entered into in respect of the land admeasuring Ac.9.18 guntas. These petitioners, A1 and other Lamba family members received an amount of Rs.1,26,63,110/- approximately from the complainant company. A6 who is a reporter also assured that he would get certain permissions in the subject property and also received Rs.60,000/-. All the accused dragged on the matter stating that they applied for conversion and HMDA permission. However, A1 quit his job from the complainant company.

4. Further, it is the case that in violation of the Memorandum of Understanding, the petitioners started marketing the land by making a venture in the subject land and selling the plots. These petitioners A2 to A5 allegedly threatened the complainant and others, when questioned regarding the amount. The other family members were ready to execute the sale deeds, but, these petitioners, A1 and A6 were coming in the way of executing the sale deeds.

5. On the basis of the said complaint, Police filed charge sheet against A1, these petitioners who are A2 to A5 and also A6.

6. Learned Counsel appearing for the petitioners would submit that in the Memorandum of Understanding dated 18.10.2016, it

was specifically mentioned that the possession of the scheduled property was handed over and the complainant has a right to appoint architects, surveyors, engineers, contractors etc. Thereafter, a legal notice was addressed by the 4<sup>th</sup> petitioner/A5 to RRK Property Assets Private Limited i.e. to the 1<sup>st</sup> respondent to come forward for registration of the land by paying the remaining sale consideration of Rs.54,22,215/-. Another Legal Notice was also issued by the 2<sup>nd</sup> petitioner/A3 to pay the remaining amount of the consideration.

7. Learned Counsel for the petitioners further submits that an Arbitration Notice in accordance with MOU was given, however, the arbitration proceedings were not taken up since the complainant was not inclined towards arbitration proceedings, though agreed in the MOU.

8. He relied on the Judgment of Honourable Supreme Court in ***Sarabjit Kaur v. State of Punjab and another***<sup>2</sup> wherein at para-13 it was held as follows;

*“13. A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep up promise will not be enough to initiate criminal proceedings. From the facts available on record,*

---

<sup>2</sup> (2023) 5 Supreme Court Cases 360

*it is evident that Respondent 2 had improved his case ever since the first complaint was filed in which there were no allegations against the appellant rather it was only against the property dealers which was in subsequent complaints that the name of the appellant was mentioned. On the first complaint, the only request was for return of the amount paid by Respondent 2. When the offence was made out on the basis of the first complaint, the second complaint was filed with improved version making allegations against the appellant as well which was not there in the earlier complaint. The entire idea seems to be to convert a civil dispute into criminal and put pressure on the appellant for return of the amount allegedly paid. The criminal courts are not meant to be used for settling scores or pressurize parties to settle civil disputes. Wherever ingredients of criminal offences are made out, criminal courts have to take cognizance. The complaint in question on the basis of which FIR was registered was filed nearly three years after the last date fixed for registration of the sale deed. Allowing the proceedings to continue would be an abuse of process of the Court.”*

9. He also relied on the Judgment of Honourable Supreme Court in **Satishchandra Ratanlal Shah v. State of Gujarat and another**<sup>3</sup> wherein at para-14 it was held as follows;

*“14. Moreover, this Court in a number of cases has usually cautioned against criminalizing civil disputes, such as breach of contractual obligations (refer to Gian Singh v. State of Punjab<sup>4</sup>). The legislature intended to criminalise only those breaches which are accompanied by fraudulent, dishonest or deceptive*

---

<sup>3</sup> (2019) 9 Supreme Court Cases 148

<sup>4</sup> (2012) 10 SCC 303

*inducements, which resulted in involuntary and inefficient transfers, under Section 415 IPC.”*

10. He further relied on the Judgment rendered by the Honourable Supreme Court in **Vijay Kumar Ghai and others v. State of West Bengal and others**<sup>5</sup> wherein at paras-38 and 40 it was held as follows;

*“38. There can be no doubt that a mere breach of contract is not in itself a criminal offence and gives rise to the civil liability of damages. However, as held by this Court in **Hridaya Ranjan Prasad Verma v. State of Bihar**<sup>6</sup>, the distinction between mere breach of contract and cheating, which is criminal offences, is a fine one. While breach of contract cannot give rise to criminal prosecution for cheating, fraudulent or dishonest intention is the basis of the offence of cheating. In the case at hand, complaint filed by Respondent 2 does not disclose dishonest or fraudulent intention of the appellants.*

*40. Having gone through the complaint/FIR and even the charge-sheet, it cannot be said that the averments in the FIR and the allegations in the complaint against the appellant constitute an offence under Sections 405 and 420 IPC, 1860. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making promise being absent, no offence under Section 420 IPC can be said to have been made out. In the instant case, there is no material to indicate that the appellants had any mala fide intention against the respondent which is*

---

<sup>5</sup> (2022) 7 Supreme Court Cases 124

<sup>6</sup> (2000) 4 SCC 168

*clearly deductible from the MoU dated 20.08.2009 arrived at between the parties.”*

11. Learned Counsel appearing for the respondent submitted that an amount of Rs.1.16 crores was admittedly taken. However, they entered into an agreement of sale subsequently with A1. For the said reason, petition has to be dismissed.

12. The transactions are not disputed by the petitioners. It cannot be said from the admitted documents which are the MoU and the correspondence between the parties that there was any intention of the petitioners, from the inception to deceive the complainant. The petitioners herein were only made as accused, though others were also parties to the MOU. The dispute in question is a civil dispute which can be agitated by the parties having recourse to the Civil Court.

13. The 2<sup>nd</sup> respondent is only interested in the criminal prosecution and for reasons best known, he has not taken steps to safeguard the rights over the property. Though arbitration clause was invoked, the 2<sup>nd</sup> respondent has not shown interest. Admittedly notice was issued to pay the balance amount and get the property registered. It is not the case that though money was offered after the

notice, registration of property was refused. Breach of agreement if any in the present circumstances will not amount to a criminal offence, unless the ingredients of Section 420 are made out.

13. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners/A2 to A5 herein in C.C.No.4723/2020 on the file of IV Metropolitan Magistrate-cum-IV Additional Civil Junior Judge at L.B.Nagar, Cyberabad, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

---

**K.SURENDER, J**

Date:26.09.2023

Note: L.R. copy to be marked.

tk

**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION No.1827 OF 2021**

**Dt. 26.09.2023**

tk