

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

Criminal Revision Application No.S-56 of 2014

Date of hearing: 29-05-2015.

Date of decision: 29-05-2015.

Applicant: Through Mr. Abdul Hafeez Qureshi, advocate.

Respondent: Syed Nasir Ali Shah through Mr. Muhammad Yaseen Shaikh, advocate.

Respondent: The State through Mushtaq Ahmed Abbasi, D.D.P.P.

**MUHAMMAD IQBAL KALHORO, J:** -This criminal revision application is directed against the order dated 04-02-2014, whereby learned 5<sup>th</sup> Additional Sessions Judge, Hyderabad dismissed the direct complaint filed by the applicant against the respondent No.2 for the offences under sections 420, 465, 466, 468, 471, 474, 506, 506 (2) & 34 PPC.

2. During the preliminary enquiry, learned Court recorded the statement of complainant and his two witnesses namely Muhammad Asif and Muhammad Faheemuddin. After evaluating their statements, learned Court came to the conclusion that the matter in fact between the parties was purely of civil nature and while concluding the same it dismissed the complaint at the stage of preliminary enquiry.

3. Precisely the case of the applicant is that he had rented out the premises / house bearing C.S No.462/8-A Ward-D admeasuring 108-1 square yards situated at ReshamGali, Shahi Bazar Hyderabad to the respondent No.2 but after some time, he refused to pay rent and despite his demands and reconciliation efforts, he did not budge from his stand, as such he filed the

rent application before the learned 2nd Senior Civil Judge, Hyderabad, where the respondent No.2 along with his written statement filed a photo stat copy of sale agreement dated 27-12-2010 showing sale / purchase of said rented house in his favour by the applicant against the sale consideration of Rs.17,00,000/- with token money of Rs.700,000/-, which according to the applicant was false and fabricated document having his manipulated signature thereon. As per contents of complaint, the respondent No.2 had also filed another sale agreement dated 08-06-2014, showing part payment which was also a forged and fabricated document having been prepared with collaboration of Stamp Vendor and attesting Notary Public.

4. Mr. Abdul Hafeez Qureshi, learned counsel appearing for the applicant has stated that the findings of the learned Additional Sessions Judge, Hyderabad are contrary to the facts narrated by the complainant in his statement as well as his witnesses. He has further stated that sufficient material was brought before the Court to take cognizance of the offences and bring the complaint on regular file but surprisingly the learned Court vide impugned order has dismissed the same.

5. On the contrary, Mr. Muhammad Yaseen Shaikh, learned counsel appearing on behalf of respondent No.2 has rebutted the above arguments of learned counsel for the applicant and has stated that in fact, on the basis of said agreements the respondent No.2 has filed a suit for specific performance of contract and permanent injunction, which is pending before the 2nd Senior Civil Judge, Hyderabad and until and unless the very documents which are claimed by the applicant to be forged ones, are so declared by the Civil Court, no offence can be stated to have been made out.

6. Mr. Mushtaq Ahmed Abbasi, learned D.D.P.P. appearing for the State has supported the impugned order.

7. I have heard the learned counsel for the parties and perused the material available on record. A perusal of the direct complaint shows that

though the reference has been made to the alleged forged sale agreements but the same have not been produced by the complainant for consideration of the Court. Even at the time of recording his statement under section 200 Cr.P.C. the applicant did not produce any such document before the Court holding preliminary enquiry to support his allegations. His witnesses in their statements have not supported factum of issuing threats to the applicant by the respondent No.2 in the words of the applicant and as far as the allegations of preparing a false and forged sale agreements are concerned, they stated that they had only heard that the respondent No.2 had forged sale agreements of the house of complainant in his favour, meaning thereby these witnesses even have not seen any such document with their own eyes. In absence of any document regarding which the direct complaint was filed by the complainant, admittedly no finding about their being genuine or not could be given by the Court, therefore, the order of the trial Court to that extent does not appear to be contrary to the facts narrated by the applicant. The factum of issuing threats, the way the complainant has alleged in his complaint, is not supported even by his witnesses as stated above and after perusing the entire material, I have come to know that no confidence inspiring material was brought by the applicant to justify bringing on regular file his direct complaint and issuing process against the respondent No.2.

8. For what has been stated, the impugned order need not any interference by this Court. Accordingly, the criminal revision application in hand is dismissed. The applicant, however, is put at liberty to initiate any action against the respondent No.2 in accordance with law, if he has any cogent and prima facie evidence regarding the subject matter against him.

**JUDGE**

A.C