

HON'BLE Smt JUSTICE ANIS

CRIMINAL PETITION No.2670 of 2015

ORDER:

This Criminal Petition is filed by the petitioner under Section 482 Cr.P.C. seeking quashing of proceedings in C.C.No.1 of 2015 on the file of II Additional Judicial Magistrate of First Class, Machilipatnam.

The allegations in the charge sheet are that the petitioner, who is working as a Manager of Sri Bala Nageswara Swamy Temple, China Yadara Village, Machilipatnam, induced to believe that he got a site at Batchupeta, Machilipatnam, worth Rs.30.00 lacs, though he did not possess, and received an amount of Rs.8,23,000/- through cheques in different times, and failed to execute the sale deed. Based on the said allegations, a crime was registered. The police after investigation filed charge sheet in the Court of II Additional Judicial Magistrate of First Class, Machilipatnam, and taken on file as C.C.No.1 of 2015.

Learned counsel for the petitioner contended that the petitioner owns a plot of 175 sq. yards; that the matter is purely civil in nature; that a civil litigation is already pending before the concerned Court; that even the petitioner had repaid an amount of Rs.2,50,000/- to the complainant; and, therefore, prayed to quash the proceedings.

Learned Public Prosecutor appearing for the State opposed to quash the proceedings in C.C. on the ground that the truth or otherwise of the averments in the charge sheet can be gone into only during the course of trial, and cannot be decided in the present application. She further submits that serious allegations are levelled against the petitioner that he induced the complainant to purchase his site and, after receiving part-payment, failed to execute the sale deed.

A perusal of the charge sheet reveals that the petitioner failed to execute the sale deed having received the amount from the complainant since he did

not possess any land and, thereby, cheated the complainant. Since serious allegations of fraud are levelled against the petitioner, he is not entitled for quashment of C.C. as the truth or otherwise of the allegations can be revealed only during the course of trial.

Learned counsel for the petitioner submits that, since the petitioner is working as a Manager in Endowments Department, it would be very difficult for him to attend the Court on every date of adjournment and this Court may take a lenient view to dispense with his presence on every date of adjournment.

Taking into fact that the petitioner is an employee, the presence of the petitioner before the Court is dispensed with except on the dates when his presence is specifically required by the Court, or as and when summoned by the Court.

With the aforesaid observation, the Criminal Petition is dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed.

ANIS,J

Date:02.04.2015

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