THE HON'BLE MRS JUSTICE ANIS
CRIMINAL PETITION NO.9171 of 2012

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C., to quash the proceedings in C.C.No.220 of 2012 on the file of the III Additional Judicial First Class Magistrate, Kothagudem, Khammam District, for the alleged offence punishable under Section 420, r/w 34 IPC.

The case of the petitioners is that the 2nd respondent filed a complaint before the Project Officer, ITDA, Bhadrachalam alleging that he is a resident of Polvoncha rural and residing at Sita Nagar Colony, Somulagudem, Palvoncha. He is a civil contractor carrying out civil works in KTPS 5th and 6th stages under the name and style of Vijaya Durga Tribal works. During March, 2010 the petitioners herein approached the 2nd respondent with a proposal to do coal business at Orissa and requested him for investment. Believing their words the 2nd respondent paid an amount of Rs.5,00,000/- on 30.03.2010 to the 1st petitioner and got executed a promissory note. The 2nd respondent and two others entered into an agreement with 25 lorry owners separately for transportation of coal from Orissa and paid an advance of Rs.6,00,000/-. It is stated that the 2nd respondent and the petitioners herein went to Orissa and worked there for one month and invested about Rs.25,00,000/- for transportation of coal and later due to unavoidable problems with labourers they could not continue the work and left Orissa. After returning from Orissa the 2nd respondent and petitioners had a meeting in the presence of elders wherein the petitioners agreed to refund the amount and issued a cheque for Rs.7,00,000/- dated 18.12.2010 drawn on Vysya Bank Kothagudem and on presentation the said cheque was dishonored for insufficient funds. Later, the 2nd respondent got issued legal notice. During March

2012, the petitioners went to Palvoncha for amicable settlement with 2nd respondent for Rs.20,00,000/-. Thereafter, the petitioners filed a private complaint in Crime No.50 of 2012 dated 9.04.2012 for the offence under Section 406, 415, 418 and 420 r/w 34 IPC on the file of the Additional Judicial First Class Magistrate, Dhone, which was numbered as C.C.No.206 of 2012 and the same is pending and that the present crime registered against them is nothing but a counter blast to the said private complaint.

Learned counsel for the petitioners argued that there is no inducement and that the ingredients of Section 420 IPC are not applicable to the facts of the case on hand, and hence he prayed to quash the proceedings in C.C.No.220 of 2012.

Though the 2nd respondent was served with notice, none appeared and there is no representation on his behalf.

Learned Additional Public Prosecutor argued that the petitioners requested the 2nd respondent to invest the amount so that he can get more benefits. Believing the said words the 2nd respondent invested huge amounts and these aspects have to be gone into in the trial and the claim of the petitioners cannot be decided in the present application. The complaint lodged by the 2nd respondent with the Project Officer, ITDA, Bhadrachalam on 7.06.2012, was forwarded to the Sub-Inspector of Police, Palvoncha on 22.06.2012. In the said complaint it was categorically stated by the 2nd respondent that he invested huge amounts in the coal business by believing the words of the petitioners, and after claiming the bills the petitioners cheated him by giving him a dishonored cheque. Therefore he prayed to dismiss the petition as the proceedings in C.C.No.220 of 2012 do not amount to abuse of process of law.

Now the point for consideration is whether the petitioner is entitled to quash the proceedins in C.C.No.220 of 2012 as prayed for?

A perusal of the record shows that on 7.06.2012 the 2nd respondent gave a complaint to the Project Officer, ITDA, Bhadrachalam stating that the petitioners herein came to him with a proposal to do coal business at Orissa and requested him to invest amount so that he can get more benefits, and by believing their words the 2nd respondent with the petitioners and invested Rs.5,00,000/- on 30.03.2010 and Rs.6,00,000/- on 11.04.2010. Thus they invested Rs.25,00,000/- towards transportation of coal. Thereafter, the work was stopped. The 2nd respondent gave a compliant to the Project Officer, ITDA, Bhadrachalam, who in turn forwarded the same to the Sub-Inspector of Police, Palvoncha on 22.06.2012 stating that the petitioners after claiming the bills for an amount of Rs.8,00,000/- cheated the 2nd respondent by giving him a dishonored cheque.

A perusal of these reports, would prima facie, show that the petitioners induced the 2nd respondent to invest huge amounts, and thereafter, they have not paid the amounts to him, but issued a cheque which was dishonoured on presentation for want of sufficient funds. The Investigating Officer after investigating the case filed a charge sheet against the petitioners for the offices punishable under Section 420 r/w 34 IPC. There is no dispute that the petitioners also filed complaint in Cr.No.50 of 2012 which was registered as C.C.No.206 of 2012 on the file of the Additional Judicial First Class Magistrate, Dhone for the offences punishable under Sections 406, 415, 418, 420 r/w 34 IPC against the 2nd respondent herein and the same is still pending.

A perusal of the contents of the complaint and the report given to the police by the Project Officer ITDA, Bhadrachalam shows prima face case and pending the proceedings in C.C.No.220 of 2012 will not amount to abuse of process of law. Hence the petitioners are not entitled to quash the proceedings in C.C.No.220 of 2012 on the file of the III Additional Judicial First Class Magistrate, Kothagudem.

Accordingly the Criminal Petition is dismissed. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

JUSTICE ANIS.

17th March, 2015
Js.