THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1942 OF 2014

ORDER:

This Criminal Revision Case is filed against the order, dated 13.12.2013, passed in Crl.M.P. No.284 of 2013 in C.C. No.293 of 2012 by the Judicial Magistrate of First Class, Zaheerabad, Medak.

The brief facts of the case are that the 1st respondent - de facto complainant lodged a complaint against the petitioner- accused stating that on the promise made by the petitioner to get him passed in the Assistant Motor Vehicle Inspector's examination, the de facto complainant gave an amount of Rs.6,80,000/- to the petitioner in three installments, but the complainant did not get threw in the said examination. As such, the petitioner cheated the de facto complainant. Basing on the said compliant, Crime No.80/2012 was registered and on completion of investigation, charge sheet was also filed before the Court below. The Court below took cognizance of the case for the offences under Sections 406 and 420 IPC against the petitioner in CC No.293 of 2012.

The petitioner filed Crl.M.P. No.284 of 2013 before the Judicial Magistrate of First Class, Zaheerabad, seeking to discharge him for the said offences. It is stated by the petitioner that he is no way concerned with the said allegations and in the year 2010, the complainant came to his office at Secunderabad and deterred him from discharging his duties, for which he filed a complaint against him, and as a counter blast to the same, the present compliant was lodged, that too, after lapse of six years, with a *mala fide* intention to harass the petitioner and that there is no record to show that the petitioner received Rs.6,80,000/- from the de facto complainant.

The learned Assistant Public Prosecutor filed counter opposing

the petition. He submitted that the statements recorded under Section 161 Cr.P.C., and also the statements of witnesses, prima facie established the offence against the petitioner.

The learned trial Judge after hearing the arguments at length has observed as follows:

> "In the charge sheet besides the complainant, three independent witnesses were cited as eye witnesses. LW.2 is Edigari Sudershan aged 72 years, R/o.Allipur, LW.3-M. Raju who is resident of Devarampally and LW.4 M.Sanjay who is resident of Zaheerabad. As already said, the complainant in his 161 Cr.P.C,. statements stated that in the year 2006, he appeared for A.P.P.S.C. examination for the post of Assistant Motor Vehicle Inspector, he approached the accused through LW.2 Sudershan and LW.3 M. Raju in whose presence, the accused promised him that he will get the complainant passed the Assistant Motor Vehicle Inspector examination and demanded Rs.10,00,000/-. He also stated that he paid Rs.6,80,000/- by selling his land, plot etc., to the accused in the presence of the above said three witnesses in three installments. He further stated that in the year 2009 the complainant failed the examination and when he consulted the accused, the accused promised to repay the amount and in the year 2009, he paid Rs.1,00,000/- to the complainant. He further stated that himself and above three witnesses made rounds to the accused for returning the amount, but the accused did not care them. LW.2 Sudershan, LW.3 M. Raju and LW.4 M. Sanjay stated on the same lines as stated by the complainant in his 161 Cr.P.C. statement. Since it is an illegal transaction, naturally there would be no documentary evidence except the oral evidence. Since the 161 Cr.P.C. statements of the witnesses prima-facie establish the offence u/S.429 IPC., against the accused, I am of the considered view that the accused cannot be discharged for the offence u/s.420 IPC."

By observing as above, the trial Court allowed the application insofar as the offence under Section 406 IPC and accordingly discharged the petitioner from the said offence and dismissed the application insofar as the offence under Section 420 IPC. Aggrieved over the said order, the present revision case is filed.

Learned counsel for the petitioner submits that the order passed by the Court below is erroneous and contrary to law. The Court below ought to have seen that there is no documentary evidence to prove that the complainant gave the alleged amount to the petitioner and hence, he prayed to allow the revision.

The truth or otherwise of the allegations levelled against the petitioner can be decided after due trial. If the Court feels that there is no *prima facie* offence to frame the charge against the accused, then only the accused can be discharged. Hence, this Court is not inclined to interfere with the order passed by the Court below and the revision is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

June 15, 2015.
KTL