THE HON'BLE SRI JUSTICE A.V. SESHA SAI

Writ Petition No.20190 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

> "to issue an appropriate Writ, order or Direction, more particularly one in the nature of *Writ of Mandamus*, declare the action of the respondents authorities in threatening to arrest the petitioner in Crime No.88/2015, U/s.406, 420 of IPC and Section 5 of the A.P. Protection of Financial Establishments Act, 1999 and Section 4 r/w 76 of Chit Fund Act, 1982, dt.04.06.2015 as illegal, arbitrary and unjust and consequently direct the 3rd and 4th respondents herein to conduct the investigation and file the final report before concerned court without arrest of the petitioner herein in Crime No.88/2015, U/s.406, 420 of IPC and Sec.5 of the A.P. Protection of Financial Establishments Act, 1999 and Section 5 of the A.P. Protection of Financial Establishments Act, 1999 and Section 4 r/w 76 of Chit Fund Act, 1982 and to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

Heard the learned counsel for the petitioner and learned Government Pleader for Home.

According to the petitioner, he is a retired Government employee and residing in Hyderabad since one decade, for the purpose of his son's education, and that he is a native of Proddutur of YSR Kadapa District. It is further stated that one Sri G.V. Raghava Reddy, S/o. Veera Reddy filed a false complaint against him and others at Proddutur III Town Police Station and that the same was registered as FIR No.88 of 2015, under Sections 406 and 420 of IPC and Section 5 of the A.P. Protection of Financial Establishments Act, 1999 and Section 4 read with Section 76 of the Chit Fund Act, 1982. It is further pleaded that the petitioner is neither a Director nor Managing Director of Sravan Chit Fund Company (P) Ltd, and the alleged transactions took place during the period from 1996 to 31st March 2011, and that after the lapse of about 4 years, the present complaint has been filed.

Learned counsel for the petitioner submits that the name of the petitioner was falsely shown as one of the Directors of the said company and that the petitioner has never been the Director or Managing partner of the company. He further states that the Managing Director, i.e. Sri G. Srinath Reddy is his own brother's son, and except the said relationship, he has nothing to do, either with the transactions in the Chit Fund Company, or the misappropriation of funds or deposits made therein. Learned counsel submits that earlier when the matter was placed before the petitioner, he gave his personal money to Srinath Reddy, to adjust some debts, and though the complainant knows all these issues, he has chosen to file the present false complaint against the petitioner herein, only for the purpose of blackmailing his family.

Learned counsel for the petitioner further submits that earlier the petitioner along with others lodged a complaint against Sri G. Srinath Reddy and another, and the same was numbered as FIR No.36 of 2015 on 11-03-2015. It is also stated by the learned counsel that the petitioner herein is one of the victims of Sri G. Srinath Reddy.

On the contrary, it is vehemently contended by the learned Government Pleader for Home, appearing for the respondents, that the petitioner herein has not made out a case for interference by this Court, under Article 226 of the Constitution of India, to quash the FIR, in view of the *prima facie* allegations against him. It is a settled and well-established proposition of law that unless there is an element of abuse of process of law, the jurisdiction of this Court cannot be permitted to be invoked, for the purpose of quashing the crimes at the stage of investigation. In the present case, in view of the existence of *prima facie* allegations against the petitioner herein, and since the points raised by the learned counsel for the petitioner herein can only be the subject matter of enquiry and investigation, this Court does not find any reason to interdict the investigation in the subject FIR, at this stage.

In this connection, it may be appropriate to refer to the Judgment of the Hon'ble Apex Court in the case of **State of Haryana and Others v. Ch.Bhajanlal and others**[1]. In the said decision, the Hon'ble Apex Court laid down the following guidelines while dealing with the applications for quashments under Sections 482 Cr.P.C and Article 226 of the Constitution of India:

> "1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.
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> 2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

> 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
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> 4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.
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> 5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
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> 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
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> 7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The case of the petitioner herein does not fit in any one of the guidelines laid down by the Hon'ble Apex Court as mentioned *supra.*

For the aforesaid reasons, the writ petition is dismissed. There shall be no order as to costs.

The miscellaneous petitions, if any, filed in the writ petition shall also stand disposed of.

A.V. SESHA SAI, J.

Dt.08-07-2015.

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[1] AIR 1992 SC 604