

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITIONS No.9727 of 2011 & 9646 OF 2013

COMMON ORDER:

1. Since both the petitions arise out of one and the same crime, these petitions are heard together and being disposed of by this common order.

2. CrI.P.No.9727 of 2011 is filed by A1 to A3 and CrI.P.No.9646 of 2013 is filed by A4 and A5 seeking to quash the proceedings against them in C.C.No.202 of 2011 on the file of IV Additional Chief Metropolitan Magistrate, Hyderabad.

3. The case of the prosecution is as follows:

As per the statements of the witnesses and the evidence collected, it is well established that A1 is making the jewellery items and doing gems stone business. About six months prior to the incident, when he went to Nellore for purchasing gems and stones he came into contract with A5- Saleem, and he had shown an antique idol and informed him that it is a rare antique idol of Marry Matha made with Natural Quartz Cat's Eye by saying that it is a very worthy antique. A1 procured the antique idol from A5 for low price and brought the same to his house with an intention to cheat the innocent customers by disposing of the said idol as original Cat's eye Idol of Marry Matha, for higher price. As A1 was facing financial problems he decided to sell the said idol, for which he contacted his friends viz., A2 to A4 and asked them to sell the said antique idol and offered them to share amount, if they sell it at higher price. A2 to A4 agreed for the proposal made by A1. Accordingly, on 17.5.2010 at 14.10 hours, A1 along with A2 to A4 came near to the Raffles Hotel, Kachiguda along with antique idol of Marry Matha to dispose it to business man on higher price. While they were waiting to dispose of the said Idol, L.W.1 and his staff caught them and seized the idol from the possession of A1. Thus, A1 to A5 committed an offence punishable under Section 420 IPC.

4. Heard and perused the material available on record.

5. The allegations made in the charge sheet would not attract the ingredients of Section 420 IPC. From the material on record, it is apparent that on the presumption that the petitioners may dispose of the Idol in question for higher price, L.W.1 apprehended them. Nobody made a complaint against the petitioners alleging that

the petitioners deceived them. The case of the prosecution itself goes to show that they did not sell the idol in question to anybody. Nobody was deceived by them. On the presumption that the petitioners may dispose of the idol for higher price, the present case was filed. Further, it is not the case of the petitioners that the petitioners have in possession of the idol illegally. It is only the case of the prosecution that they are trying to sell it for higher price. In the absence of any of the ingredients of Section 420 IPC, merely on presumptions, the continuation of the proceedings against the petitioners for the alleged offence is nothing but abuse of process of Courts and therefore, this Court is of the view that the proceedings against the petitioners in the above C.C. for the offence under Section 420 IPC are liable to be quashed.

6. Accordingly, the Criminal Petitions are allowed quashing the proceedings against the petitioners in C.C.No.202 of 2011 on the file of IV Additional Chief Metropolitan Magistrate, Hyderabad. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 18th November, 2015

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