

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Crl.R.C.No.303 of 2015

JUDGMENT :

This Revision is filed under Sections 397 and 401 of Cr.P.C., challenging the order dt.09.01.2015 in Crl.M.P.No.3877 of 2014 in C.C.No.306 of 2012 on the file of VIII Metropolitan Magistrate, Cyberabad, Rajendranagar.

2. The petitioner herein is accused No.4 in C.C.No.306 of 2012 registered under Section 420 IPC. He is said to be a travel agent doing the business of ticket booking.

3. It is alleged that accused No.1 came to the shop of petitioner and got booked tickets through him; that the tickets were booked for accused Nos.5 to 8 to go from Hyderabad to Dubai and from Dubai to Baghdad; that accused No.1 collected the amount from accused Nos.5 to 8 for the said purpose; and that they boarded the flight at Hyderabad and reached Baghdad, but because they did not have work visas they were sent back.

4. The only allegation against petitioner is that on 23.12.2010 he cancelled the return journey tickets of accused Nos.5 to 8 and gained the amounts wrongfully with the collusion of accused no.1. A charge against the petitioner is framed under Section 420 IPC. The said provision reads :

“420. Cheating and dishonestly inducing delivery of property :-

Whoever cheats and thereby dishonestly induces the

person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

5. From the facts narrated above, it is clear that the only reason why the petitioner has been arrayed as an accused in the charge-sheet is that he was responsible for the canceling of the return journey tickets of accused nos.5 to 8.

6. As a travel agent, it is the nature of his business to book tickets or cancel tickets. The petitioner had no concern with accused nos.5 to 8 or sending them to Baghdad. Therefore, the ingredients of Section 420 IPC are not attracted.

7. The court below without considering the said aspect had rejected Crl.M.P.No.3877 of 2014 in CC.No.306 of 2012 filed by petitioner seeking his discharge. The court below had simply recorded the contention of prosecution that petitioner had cancelled the return journey tickets and gained amount wrongfully with collusion of accused no.1; and that the petitioner had, with knowledge, done so. Even if this allegation is taken as true on its face value, the ingredients of Section 420, being non-existent, the petitioner cannot be prosecuted under the said provision of law. Therefore, the Criminal Revision is allowed and the order dt.09.01.2015 in Crl.M.P.No.3877 of 2014 in C.C.No.306 of 2012 on the file of VIII Metropolitan Magistrate, Cyberabad,

Rajendranagar is set aside.

8. Miscellaneous petitions, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-02-2015

Ndr/*