

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION No.11988 of 2014

ORDER :

This Criminal Petition is filed by Petitioners/Accused Nos.1 to 3 under Section 482 Cr.P.C seeking to quash the proceedings in Crime No.332 of 2014 of Kurnool IV Town Police Station, Kurnool District which is the outcome of private complaint filed by the 2nd respondent herein for the offences punishable under Sections 420, 465, 468, 471 of I.P.C.

2) The report of the 2nd respondent/defacto-complainant which is his private complaint dated 20.06.2014 that was referred for investigation to the police by the learned Additional Judicial Magistrate of the First Class, Kurnool under Section 156(3) Cr.P.C in registering the above crime of dated 12.09.2014 in sum and substance is that A-3 is sister of A-1 and A-2 is husband of A-3 and that the accused persons 2 and 3 husband and wife are doing money lending business, that one Venkata Ramana a private employee, brother of the defacto-complainant borrowed Rs.1,00,000/- from A-2 and A-3 and at the instance of A-2 and A-3, family members of Venkata Ramana executed a promissory note in their favour including the complainant for said Rs.1,00,000/- in favour of A-3 on 31.01.2004 and A-2 and A-3 also obtained a blank cheque for collateral purpose that was from the account of the complainant without his knowledge his brother Venkata Ramana issued an unfilled signed cheque only as a collateral purpose and not to enforce otherwise but for default of promissory note amount and Venkata Ramana having paid Rs.80,000/- that was cause endorsed on the back of the promissory note from time to time and

ultimately even paid Rs.20,000/- to A-3 that was not allowed to endorse and to return the promissory note and having not returned the promissory note on one pretext or the other, initially and later by refusal, from the differences crept in they misused and filed suit in the name of A-3 as plaintiff in O.S. No.59 of 2009 for recovery of promissory note amount on the file of Principal Senior Civil Judge, Kurnool and against the decree, appeal in A.S. No.62 of 2011 is pending. Not satisfied with that, A-2 and A-3 having bore grudge against the complainant, his brother Venkata Ramana and their family members in collusion with A-1 and as part of their nefarious plan misused the blank cheque in the name of A-1 and a payee and cause it returned for insufficient funds in filing a criminal case for the offence punishable under Section 138 of the Negotiable Instruments Act and against the conviction judgment against the complainant by Judicial Magistrate of the First Class, Dhone, dated 11.01.2012, appeal before the IV Additional Sessions Judge, Kurnool pending as Criminal Appeal No.25 of 2012. Not even satisfied with that A-1 to A-2 in furtherance of their collusion and nefarious plan by cheating, the complainant and his brother and family members conceived suit against the complainant A.Venkateswarlu and another Court Employee C.Venkateswarlu by creating and forging a promissory note for Rs.1,00,000/- dated 07.05.2005 as if executed in filing, thereupon O.S. No.282 of 2008 on the file of Additional Senior Civil Judge, Kurnool in the name of A-1 as plaintiff and the suit was cause dismissed for default afraid of C.Venkateswarlu for his questioning and for his influential personality.

3) Be that as it may, there was a panchayat held at the instance of the complainant herein with elders and advocates to settle the matters and the settlement arrived for all the three cases

viz., Criminal Appeal No.25 of 2012 against cheque bouncing case A.S. No.62 of 2011 of promissory note suit and O.S. No.282 of 2008 a fabricated promissory note suit cause dismissed for default not restored even, as full and final settlement for Rs.3,00,000/- and as per the terms of the compromise, complainant paid Rs.2,00,000/- to A-2 and A-3 and agreed to pay the remaining Rs.1,00,000/- within one month and one K.Mohan Babu Advocate drafted the receipt that was signed by A-1 and A-2 in the said panchayat held in the office of a senior Advocate Sri D.Yella Reddy and even the complainant called the accused persons 1 to 3 by expressing his readiness, Rs.1,00,000/- balance for the final settlement before Lok Adalat they bluntly refused to come forward and thereby having detained the amount of Rs.2,00,000/- despite compromise for not come forward they cheated and thereby they are liable for the offences. It is the sum and substance of the complaint that was forwarded under Section 156(3) Cr.P.C by the learned Magistrate to the police in registering the crime against the accused 1 to 3 against which the present quash petition is filed.

4) The contention of the learned counsel for the petitioners herein is that the complaint averments are nothing but false and the above crime is cause registered as an arm twist and to serve as a counter to the pending proceedings of the criminal appeal and civil appeal besides the civil suit without bonafides and even in A.S. No.69 of 2011 matter covered by decree and judgment of O.S. No.59 of 2009 from the appeal ended in dismissal of dated 03.07.2014 execution petition filed is pending that is not disclosed and even the complainant come forward for compromise on 08.07.2012. It is only relating to O.S. No.282 of 2008 does not relating to O.S. No.59 of 2009, however, with a malafide intention the suit number is inserted, even there is no signature of A-3 to

said compromise if at all his suit coming for compromise to bind and it is the complainant that cheated the accused and not vice versa thereby the proceedings are nothing but abuse of process.

5) In fact, from the parties to the lease deed for insertion of a lease in the name of A-3, the compromise between the parties for Rs.3,00,000/- in full settlement is not in dispute. Once that compromise is entered between the parties for settlement that is outside the Court and not before the Lok Adalat, the remedy is to lead evidence with reference to the compromise in the pending lis including in the criminal appeal by filing an application under section 391 Cr.P.C for adducing additional evidence relating to the compromise for taking a lenient view in cheque bouncing case appeal, so also in the execution petition of the civil suit and appeal ended against by filing application under Section 47 C.P.C if not also subject to application under Order XXI Order 1 and 2 C.P.C so also if it is relating to other default dismissal suit filed by A-3, if at all restored therein that but for that by itself cannot tantamount to cheating or deception muchless to attract any of the offences under Sections 420, 465 or 468 or 471 I.P.C. What the vacate petition to the quash petition, filed by the defacto-complainant of they have given goby to the compromise that tantamounts to cheating particularly averred in Para No.5 is therefrom not tenable.

6) Having regard to the above, the criminal proceedings no way sustainable as the matter is purely of civil in nature and workout the remedies of the outside Court compromise by adducing additional evidence in the criminal appeal and evidence in the execution petition and any evidence in the suit dismissed for default if at all restored in future.

7) In the result, the criminal petition is allowed and all proceedings relating to Crime No.332 of 2014 of Kurnool IV Town Police Station are hereby quashed. The bail bonds of the accused, if any, shall stand cancelled. Consequently, miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

02.09.2015

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