

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.13292 of 2010

ORDER

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed to quash all the proceedings in Crime No.53 of 2010 of Charminar Police Station, Hyderabad, which was registered for the offences punishable under Sections 406 and 420 I.P.C.

2. Case of the *de facto* complainant is that he is a Proprietor and doing wholesale business in the name of M/s.Poonam Sarees and the petitioner/accused is doing retail business in the name and style of M/s.Kanakadurga Cloth Stores having a showroom at Vijayawada. The petitioner approached the *de facto* complainant in the month of October, 2008 at his shop and induced him and persuaded him to sell sarees on credit basis and further, undertook to pay the amount within 30 days failing which, to pay interest at 24% p.a. Respondent No.1, believing the petitioner, agreed to supply the sarees on credit basis with an undertaking that he will pay the amounts within 30 days. Initially, he paid the amount, but later, he fell due to a sum of Rs.1,69,188/- and also failed to pay the said amount and when demanded, the petitioner/accused is said to have threatened the *de facto* complainant with dire consequences. Hence, the *de facto* complainant gave a private complaint against the petitioner and the same was registered as the aforementioned crime.

3. Learned counsel for the petitioner/accused submits that the entire case is a false and concocted one and as a matter of fact, even if what is alleged in the complaint is taken to be true on the face of it, respondent No.1 has to approach a Civil Court for recovery of the amount due, as the dispute is a civil dispute, and for recovery of the amount, respondent No.1 is giving colour as a criminal nature and

hence, he prays to quash all the proceedings in Crime No.53 of 2010 of Charminar Police Station, Hyderabad.

4. Admittedly, the relationship between the petitioner/accused and the *de facto* complainant is that of purchaser and seller of goods and they have been doing business of sarees for about two years. In the complaint itself, it is clearly mentioned by the *de facto* complainant that the petitioner/accused has failed to keep his promise and obligations in terms of his representations and is acting in a fraudulent manner and not fulfilling all his obligations of making payment to the *de facto* complainant for supplying the sarees.

5. A bare reading of the complaint shows that there is a purely contractual relationship between the parties and hence, violations, if any, will entail in launching civil proceedings, but launching criminal proceedings of cheating is not maintainable. It is a clear case where there is a remedy for violation of the terms of the representations, instead of giving colour of cheating punishable under Section 420 I.P.C. In that view of the matter, the petition deserves to be allowed.

6. Accordingly, the Criminal Petition is allowed and all the proceedings in Crime No.53 of 2010 of Charminar Police Station, Hyderabad are quashed.

7. Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

JUSTICE M.S.K.JAISWAL

Date:20.8.2015
AMD

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