

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.3358 of 2015

ORDER:

 This petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.1587 of 2013 on the file of the III Additional Chief Metropolitan Magistrate, Hyderabad.

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2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. A perusal of the record reveals that the petitioner herein submitted an application to the 2nd respondent for allotment of mutual fund units under Reliance LP-RD Plan vide application, dated 07-09-2009 for an amount of Rs.05,05,000/-. The petitioner also issued a cheque bearing No.426643, dated 07-09-2009 for Rs.05,05,000/-. The Company allotted 504.553 units to the petitioner under Folio bearing No.40895202522 for Rs.5,05,000/-. For one reason or the other, the petitioner has not subscribed his signature on the application form. Therefore, the cheque and the application submitted by the petitioner were returned. Inadvertently, the company allotted 504.553 units in favour of the petitioner, who inturn unuathorizedly redeemed the units. The company issued a legal notice on 01-07-2013 directing the petitioner herein to pay an amount of Rs.5,05,000/-, for which the petitioner did not submit any reply. Having no other alternative, the 2nd respondent filed a complaint under Section 200 Cr.P.C. on the file of the III Additional Chief Metropolitan Magistrate, Hyderabad. The learned Magistrate, after satisfying himself with the material available on record, had taken cognizance of offence against the petitioner under Sections 403, 406, 418 and 420 IPC.

4. A perusal of the record reveals that the learned Magistrate has not committed any illegality or irregularity while taking cognizance of offence against the petitioner. The predominant contention of the

learned counsel for the petitioner is that the allegations made in the complaint do not constitute the offences alleged under Sections 403, 406, 418 and 420 IPC. This is not the stage of go into the merits of the main case. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to either of the parties to the proceedings. The material available on record is *prima facie* sufficient to proceed further against the petitioners.

5. In **Madhu Limaye Vs. State of Maharashtra**^[1] the Hon'ble Supreme Court held as under:

“At the outset the following principles may be noticed in relation to the exercise of inherent power of the High Court, which have been followed ordinarily and generally, almost invariably, barring a few exceptions.

1. That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;
2. That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;
3. That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

In **Padal Venkata Rama Reddy @ Ramu Vs. Kovvuri**

Satyanarayana Reddy^[2], the Hon'ble Supreme Court held as under:

13. It is well settled that the inherent powers under Section 482 can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. It cannot be used if it is inconsistent with specific provisions provided under the Code (vide *Kavita v. State* {2000 Cri LJ 315 (Del)} and *B.S. Joshi v. State of Haryana* {(2003) 4 SCC 675}. If an effective alternative remedy is available, the High Court will not exercise its powers under this section, specially when the applicant may not have availed of that remedy.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the

considered view that it is not a fit case to quash the proceedings at this point of time.

7. Hence, the petition is dismissed at the admission stage. However, the dismissal of this petition does not preclude the petitioner to avail remedies available to him under law including filing of discharge petition, if the charges are already not framed.

8. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

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T.SUNIL CHOWDARY, J

Date: 23.04.2015

Prv

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[\[1\]](#) (1977) 4 SCC 551
[\[2\]](#) (2011) 12 SCC 437