

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

Criminal Petition No. 10968 of 2009

Order:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, seeking to quash the proceedings pending against him in C.C. No. 581 of 2005 on the file of the Judicial Magistrate of First Class, Kodad, Nalgonda District, for the offences punishable under Sections 420 and 406 IPC.

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

3. The specific allegation against the petitioner/accused, who is a practicing advocate, is that the *de facto* complainant has approached him for filing a civil suit for recovery of money and the petitioner/accused has taken a sum of Rs.45,000/- towards his fees from the *de facto* complainant and later he told that the suit has been filed and the matter has been decreed. On verification, the *de facto* complainant came to know that neither any suit was filed nor any decree was obtained by the petitioner/accused and, thereby, he committed the act of cheating.

4. Learned counsel for the petitioner submits that, absolutely, there is no material or evidence to show that the petitioner/accused has received any fees from the *de facto* complainant and, therefore, the proceedings against the petitioner/accused are liable to be quashed.

5. The truthfulness or otherwise of the allegations made against the

petitioner/accused can be decided only after full fledged trial and at this stage this Court cannot go into the evidence aspect by making a roving enquiry. Suffice it to see whether there is any material *prima facie* sufficient to proceed against the petitioner/accused or not? Since the material placed on record, *prima facie*, sufficient to enquire into the allegations made against the petitioner/accused, I am satisfied that it is a fit case where trial should be proceeded with against the petitioner/accused for the offences alleged against him in the charge sheet. In that view of the matter, I do not think it proper to quash the proceedings against the petitioner/accused.

6. The Criminal Petition is, accordingly, dismissed. However, the learned Judicial Magistrate of First Class, Kodad, Nalgonda District, is directed to proceed with the case in C.C. No. 581 of 2005 and dispose of the same as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order, uninfluenced by any of the observations made supra and without insisting for the presence of the petitioner/accused herein for each and every adjournment, unless his presence is necessary for any specific purpose.

7. As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Petition shall stand closed.

M.S.K. JAISWAL, J.

Date: 29.09.2015

Nsr