

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION NO.2973 OF 2013

ORDER:

Heard both sides.

This petition is filed by the petitioner-accused No.3 under Section 482 of the Code of Criminal Procedure seeking to quash the proceedings in C.C.No.253 of 2008 on the file of the Judicial First Class Magistrate at Mahabubabad, wherein the petitioner was charge sheeted for the offence punishable under Section 420 of the Indian Penal Code.

The prosecution case is that the *de facto* complainant is running tamarind and chilli business under the name and style of Sri Satya Sai Industries. L.W.3 is the agent for the said business and he used to introduce customers to the vendors. In that course, he introduced the accused to the complainant. On 14.04.2005, the accused purchased 12 tonnes of tamarind worth of Rs.1.5 lakhs and got the commodity transported. Again on 03.05.2005, he purchased three tonnes of chilli and 49 bags of tamarind worth Rs.2 lakhs from the complainant and got the commodity transported. He purchased the goods in the name of NCN Puli Angadi, Erode. The accused advanced Rs.20,000/- by way of demand draft and later he did not pay any amount. When the complainant contacted him on phone, he refused to pay the amount. Thereafter, the complainant visited Erode along with L.Ws.2 and 3 and made a request for payment but the accused did not pay the amount and on the other hand, he tried to beat the complainant and L.Ws.2 and 3. They some how managed to escape from the accused. Hence, the complaint. The police, after investigation, laid charge sheet against the accused for the offence punishable under Section 420 IPC. Charge sheet was accepted and case was registered as C.C.No.253 of 2008.

Denying the offence, learned counsel for the petitioner submitted that there is absolutely no specific allegation against the petitioner and even as per the complaint allegations, the present accused collected the commodity only on behalf of accused Nos.1 and 2, who were let off by the police on the submission that they paid the amount due. Learned counsel prayed to quash the proceedings against the petitioner.

Per contra, learned counsel for the second respondent/complainant submitted that the petitioner/accused placed order and received commodity on different occasions on his own behalf and not for any others or accused Nos.1 and 2 and therefore, the police rightly filed charge sheet against him and he does not deserve quashing of the proceedings.

In view of the above rival submissions, the petitioner/accused is granted liberty to approach the trial Court and move an appropriate application seeking discharge, in which case, the trial Court shall pass an appropriate order on merits. The presence of the petitioner is dispensed with before the trial Court except on the occasions when the trial Court specifically requires his attendance in the Court.

This Criminal Petition is disposed of, accordingly. Miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

(U.DURGA PRASAD RAO, J)

27th April 2016
RRB