

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.15403 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.1141 of 2015 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad registered for the offences punishable under Sections 406, 420, 468 and 471 of Indian Penal Code (for short "I.P.C.").

The allegations made in the charge sheet would show that the petitioner collected an amount of Rs.8,00,000/- from Prasana Kumar, Rs.5,00,000/- from Vijay and Rs.1,00,000/- from Krishna Reddy and others and also collected Rs.7,00,000/- from the complainant and he collected Rs.2.00 crores from different persons by making false promises viz. providing BPO contract, Catering Contract, Hiring the vehicle contract etc. Several cases are pending before different Courts viz. Crime Nos.529 of 2015 under Sections 406 and 420 of I.P.C. on the file of Jubilee Hills Police Station, Crime No.530 of 2015 under Sections 406 and 420 of I.P.C.; Crime No.557 of 2015 under Sections 406 and 420 of I.P.C.; Crime No.558 of 2015 under Sections 406 and 420 of I.P.C.; Crime No.569 of 2015 under Sections 406 and 420 I.P.C.; Crime No.570 of 2015 under Sections 406 and 420 I.P.C.; Crime No.583 of 2015 under Sections 406, 420 and 506 I.P.C.; Crime No.584 of 2015 under Section 406, 420 and 506 I.P.C. on the file of Jubilee Hills Police Station.

Thus, the petitioner involved in number of cases for the similar offences i.e. collection of huge amount from different

persons under the guise of providing different contracts, but failed to provide any such contract to any of the persons, from whom he collected amounts. Therefore, the allegations made in the charge sheet constitute the offences punishable under sections referred above, *prima facie*, if proved.

Learned counsel for the petitioner contended that the petitioner was detained under the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offender, Goondas, Immoral Traffic Offenders and Land Grabber Act, 1986 vide G.O.Rt.No.515 General Administration (Law & Order) Department, dated 29.02.2016 and it would expire by 05.12.2016, till then the proceedings before the Magistrate have to be stopped, otherwise the petitioner would be put to substantial loss and it will be difficult to defend himself. Further, learned counsel for the petitioner drawn the attention of this Court to the details of cases pending on the file of Nampally Court, which would show that the matter was posted for furnishing of copies on four adjournments, thereafter for examination and subsequently summons to witnesses were issued. But the accused was not produced on different dates i.e. 21.09.2016, 05.10.2016 and 19.10.2016, and the matter was adjourned to 02.11.2016 while ordering summons to witnesses.

None of the documents were produced before this Court disclosed that the trial has commenced and witnesses were examined in the above cases in the absence of the petitioner. Even if the Court wanted to proceed against the petitioner, the Court shall take steps for production of the accused before the Court by issuing summons to the accused through process, but in the

absence of the same, the Court shall not proceed with the trial. Therefore, it is not a fit case to grant stay of all further proceedings. However, the Magistrate is directed to follow the due procedure and conduct trial only in the presence of the accused as the Courts are expected to conduct fair trial by affording reasonable opportunity to the petitioner herein to defend himself.

With the above observations, the petition is disposed of. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

Date:28.10.2016

Note:

Issue C.C. by 31.10.2016

B/o
Ksp



JUSTICE M. SATYANARAYANA MURTHY