

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION No.5794 OF 2013

ORDER:

Vide the present petition, the petitioner seeks a direction thereby to quash all further proceedings against him in Crime No.275 of 2013 of Panjagutta Police Station, Hyderabad registered for the offences punishable under Sections 406, 420, 506 read with 34 of IPC.

The present petition is filed on the grounds *interalia* that the petitioner is a Director of A-1 company, A.2 is the sister concern of A.1 company. A.3 and A.4 are the Directors of A.1 Company whereas the A.5 is the Manager of A.1 Company. The 1st respondent company M/s. Micro Care Computers Private Limited deals business with computer peripherals. On 17.11.2009 A.1 company purchased some computer peripherals for Rs.16,76,048/- and on 18.11.2009 the first respondent received an amount of Rs.4 lakhs, thereafter, A.1 received some computer peripherals on 11.2.2010 and later failed to pay an amount of Rs.12,76,048/-. Therefore, the first respondent filed a private complaint.

The petitioner further averred that admittedly it is a business transaction and the first respondent has also received an amount of Rs.4 lakhs. Further it cannot be said that there was any dishonest intention at the time of inception to attract Section 420 IPC; that admittedly it is only a monetary transaction and it is only civil dispute where a suit has to be filed for recovery of amount and criminal prosecution is not maintainable; that even in

complaint the 1st respondent never alleged that the petitioner had dishonest intention to cheat the 1st respondent and the inception; that if at all any allegation is there it is only against A.1 and the petitioner cannot be fastened with the criminal liability.

Learned counsel appearing on behalf of the petitioner submits that on filing of the complaint by the de facto complaint before the court below, it has referred the same to the police for investigation. Meanwhile, the petitioner approached this court. Vide order dated 21.06.2013, this Court granted interim direction. Thus, there is no further proceeding in the present case.

Learned counsel submits that the ingredients of the offence against the petitioner is not completed, therefore the complaint against the petitioner be quashed.

It is an admitted fact that only the complaint is filed in the Court and the court below referred the same to the police for report.

It is up to the investigating agency to look into the matter and file the report accordingly. If no case is made out against the petitioner, the matter ends. However, if something is found, they will file a report before the Court below, and after seeing the report, the court may further direct to register FIR or may ask the petitioner to lead evidence. Thus, the present petition is filed at the premature stage.

Let police be filed the report, and on receipt of the said report, the learned judge will pass order as per law.

If the petitioner is still aggrieved with the order passed by the Court below, he is at liberty to approach the appropriate forum in accordance with law.

Accordingly, the Criminal Petition is disposed of.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date :29-11-2016

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