

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION Nos.12902 OF 2010 & 2343 OF 2011

COMMON ORDER:

Criminal Petition Nos.12902 of 2010 and 2343 of 2011 are filed by the petitioners/A-1, A-2, A-4, A-6, A-7 & A-8 and A-9 and A-5 respectively under Section 482 Cr.P.C. seeking to quash the proceedings in F.I.R.No.241 of 2010 on the file of Hanuman Junction Police Station, Nuzvid, Krishna District.

2. Since these two Criminal Petitions arise out of a same crime, they are being disposed of by way of this common order.

3. Respondent No.2 entered into an agreement with A-1 company for letting out her land for erecting a cell tower subject to conditions mentioned therein and ultimately, A-1 did not choose to erect the cell tower in her land and erected the same at some other place. So, she filed a private complaint against the petitioners herein and A-3 before the Additional Judicial First Class Magistrate, Nuzvid invoking the provision under Sections 190 and 200 Cr.P.C. praying to refer the matter to the police under Section 156(3) Cr.P.C. for enquiry and report for the offences under Sections 420, 504 and 506 read with 34 I.P.C. The learned Magistrate, after examining the complainant and *prima facie* finding that no case was made out against the petitioners and A-3 for the offence under Section 420 I.P.C., forwarded the complaint to the police directing them to register F.I.R. and investigate the matter only for the offences under Sections 504 and 506 I.P.C., by observing that the complaint does not disclose any offence under

Section 420 I.P.C. In spite of the specific direction of the learned Magistrate, the police registered the case against the petitioners and A-3 under Sections 420, 504 and 506 read with 34 I.P.C. The petitioners filed the present criminal petitions seeking to quash the aforementioned F.I.R.

4. *In spite* of service of notice, notice appears for respondent No.2.

5. Heard and perused the material on record.

6. As far as the offence punishable under Section 420 I.P.C. is concerned, the entire reading of the complaint disclose the fact that there is an agreement between respondent No.2 and A-1 company for erection of a cell tower in the place of respondent No.2's house for which she has agreed and on the basis of the request made by A-1, she has demolished a small portion of her house expecting that A-1 would erect a cell tower and thereby, she can get rent from A-1. It is evident from the record that subsequently, A-1 company unanimously cancelled the idea of erecting the cell tower in the place of respondent No.2's house and erected the same in another place. Considering all the facts and circumstances of the case, this Court is of the view that the act of the petitioners do not certainly attract the offence under Section 420 I.P.C., as there is no intention of disruption or cheating.

7. Insofar as the offence under Section 504 I.P.C. is concerned, Section 504 I.P.C. reads as under:

“Intentional insult with intent to provoke breach of the peace:- Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be

likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

From an entire reading of the complaint, there is nothing on record to show that there are ingredients to attract the offence under Section 504 I.P.C. As far as the offence under Section 506 I.P.C. is concerned, the specific words or manner in which respondent No.2 was threatened by the petitioners were not mentioned anywhere. Hence, this Court is of the view that the complaint does not disclose any of the offences alleged either in the complaint or in the F.I.R. Hence, the proceedings in the said F.I.R. are liable to be quashed.

8. Accordingly, Criminal Petition Nos.12902 of 2010 and 2343 of 2011 are allowed quashing the proceedings against the petitioners/A-1, A-2, A-4, A-6, A-7 & A-8 and A-9 and A-5 respectively in F.I.R.No.241 of 2010 on the file of Hanuman Junction Police Station, Nuzvid, Krishna District.

9. Miscellaneous petitions pending, if any, in these Criminal Petitions shall stand closed.

JUSTICE RAJA ELANGO

23.9.2016
AMD

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Date: 23.9.2016

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