

**THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.15308 OF 2016**

**ORDER:**

This criminal petition, under Section 482 of Criminal Procedure Code, 1973, is filed by the petitioner to quash the proceedings in C.C. No.411 of 2015 pending before the III Additional Judicial Magistrate of First Class, Ongole, for the offence punishable under Section 420 of Indian Penal Code, 1860.

The allegations made against the petitioner is that while the second respondent/ de facto complainant working as News Reporter in Surya Daily Newspaper at Cumbum, Raneemeekala Rajesh (L.W.2) was the Paper Circulation in-charge at Ongole and Ravilla Sivaiah (L.W.3) was the News Reporter, Surya Daily Newspaper at Tripuranthakam. While so, on demand of the petitioner herein, the said Ravilla Sivaiah paid Rs.10,000/- each personally to the petitioner for continuation of his job as News Reporter of Surya Daily Newspaper, Tripuranthakam and Bestavaripeta Mandals. Since the petitioner demanded money, Mallela Krishna Reddy (L.W.4) resigned to his employment, and whereas Gottipati Nageswara Rao (L.W.6) paid Rs.10,000/- personally to the petitioner to continue him as News Reporter, Surya Daily Newspaper, at Maddipadu Mandal, but he resigned to his job as the petitioner once again demanded him much more money for continuation of his job. Likewise, the petitioner made several demands from other employees and the second respondent/ de-facto complainant was forced to pay

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Rs.40,000/- through SBI Account No.00000031618487190 of Raneemeeekala Rajesh. On the direction of the petitioner, transferred an amount of Rs.40,000/- to the SB Account No.00000031618487190 of the said Rajesh (L.W.2) on 29.07.2014, then requested him to withdraw the amount and accordingly, L.W.2 also withdrawn the same and handover the same to the petitioner. Thus, the petitioner, by keeping the employees working in Surya Telugu Daily Newspaper, as reporters, under threat of removal, used to collect huge amount and accordingly collected different amount referred above. After completion of investigation, the police filed charge sheet, before the concerned court, only for the offence punishable under Section 420 of IPC.

According to Section 415 of IPC the word 'Cheating' means, whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Thus, here the petitioner, who is in a position to manage the affairs being in-charge of Surya Daily Newspaper, Prakasam District, induced the second respondent and others to pay huge amount, to continue them as Reporters at various places,

otherwise, to remove them and such act would attract the offence punishable under Section 420 IPC, if proved.

It is also contended that the petitioner is only an in-charge of Prakasam District and remit the amount to Head Office, at Guntur, but it is not known, where he remitted the amount to Guntur Office or not. It is contended by the counsel for the petitioner that there is no material to proceed further.

But the truth or otherwise in the allegations made in the charge sheet cannot be looked into at this stage, since it is a subject matter of proof during trial. However, as the allegations made in the charge sheet on its face value, if proved, would constitute an offence punishable under Section 420 IPC.

Normally, the power vested on this Court under Section 482 Cr.P.C., which is inherent, shall be exercised sparingly only to give effect to any order under code of criminal procedure, to prevent abuse of the process of any court and to secure the ends of justice as held by the Apex Court in **R.P. KAPUR VS. STATE OF PUNJAB**<sup>1</sup>.

In **STATE OF HARYANA v. BHAJAN LAL**<sup>2</sup> the Apex Court laid down seven guidelines to exercise jurisdiction under Section 482 Cr.P.C. In **MADHAVRAO JIWAJI RAO SCINDIA & ANR. v. SAMBHAJIRAO CHANDROJIRAO ANGRE & ORS.**,<sup>3</sup> the Apex Court held that, the legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence.

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<sup>1</sup> AIR 1960 SC 866

<sup>2</sup> 1992 Supp.(1) SCC 335

<sup>3</sup> AIR 1988 SC 709

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As seen from the allegations made in the charge sheet, *prima facie*, it would attract the offence punishable under Section 420 IPC, if proved, during trial. Therefore, I find no ground to quash the proceedings at this stage.

In the result, the criminal petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

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**M. SATYANARAYANA MURTHY, J**

Date: 27.10.2016  
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