

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.6486 of 2015

ORDER:

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in C.C.No.1001 of 2014 on the file of the Court of the II Additional Chief Metropolitan Magistrate, Hyderabad, arising out of offences under Sections 420 and 406 IPC.

Heard and perused the material.

The brief facts of the case are as follows. The Government of India issued Notification calling for 'Stree Shakti Puraskar' Award with the last being 07.11.2009. Thereafter, the petitioner herein was granted the said award. The complainant got the information under the Right to Information Act that the petitioner has not filed her application before the last date, i.e., 07.11.2009. Alleging that the petitioner has committed offences for getting the Award, the *de facto* complainant filed complaint before the police and that the police registered the case and requested the complainant several times to produce witnesses and documents, but the complainant failed to produce the same and as such, police filed final report as 'lack of evidence'. Thereafter, protest petition was filed by the complainant before the Magistrate and that the learned Magistrate referred the same to the police and that the police registered and investigated the case and referred the case as false.

The complainant's grievance is that the petitioner is not an advocate but she claims to be the advocate, which necessitated the Government to grant Award to the petitioner. Per contra, learned counsel for the petitioner submits that the petitioner is no way concerned with the process of the applications, that the petitioner's name was recommended by Dr C.Narayan Reddy and that same was considered and she was granted Award. Learned counsel further submits that the petitioner did not induce any person to recommend her and that she does not have any intention to deceive any person.

After hearing the arguments on both sides, this Court is of the view that insofar as offence under Section 406 IPC is concerned, the allegations

made against the petitioner do not involve any of the ingredients to attract an offence under Section 406 IPC. Insofar as offence under Section 420 IPC is concerned, even admitting that the entire case is true and unrebutted, the facts in the case and the evidence adduced by the complainant would not attract the offence under Section 420 IPC.

Section 415 IPC and its Explanation and Section 420 IPC read as under.

415. Cheating.- 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".

Explanation.- A dishonest concealment of facts is a deception within the meaning of this Section.

420. Cheating and dishonestly inducing delivery of property.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

A perusal of the above Sections would show that to attract an offence under Section 415 IPC, there should be an element of deception with fraudulent or dishonest intention. There is nothing on record to show that the petitioner has any intention to deceive any person nor is there any allegation that the application of the petitioner is processed by the Officials with the inducement of the petitioner. Hence, this Court is of the view that pendency of the case against the petitioner is a clear abuse of process of law. Hence, the same is liable to be quashed.

The criminal petition is accordingly allowed and the proceedings in C.C.No.1001 of 2014 on the file of the Court of the II Additional Chief Metropolitan Magistrate, Hyderabad, are hereby quashed and the petitioner is acquitted of the offences alleged against her.

Consequently, miscellaneous petitions, if any, pending, shall stand

closed.

07.04.2016
pln

JUSTICE RAJA ELANGO