

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15724 OF 2016

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the proceedings in Cr.No.101 of 2012 of Pentapadu Police Station, Pentapadu Mandal, West Godavari District, registered against the petitioner for the offences punishable under Sections 406, 408, 409 and 468 of Indian Penal Code, 1860 (for short 'I.P.C.') on the ground that the petitioner is only an agent for purchasing paddy from various farmers in the Village in connection with the scheme known as Indira Kranthi Padakam, purchasing paddy through women agents, organizations etc.,

The allegations made against the petitioner are as follows:

- i) The petitioner purchased paddy at lesser rate and sold the same to the Sangham at higher rate and Banam Lakshmi cooperated with him.
- ii) The petitioner and Banam Lakshmi encashed some cheques issued in the names of agriculturists.
- iii) Some cheques were issued to the agriculturists though they have not supplied the paddy.
- iv) One cheque was encashed by the petitioner with the cooperation of B. Lakshmi.
- v) Smt.Banam Lakshmi forged some cheques and encashed them with the help of the petitioner.
- vi) Smt. Banam Lakshmi gave cheques to the petitioner instead of agriculturists.
- vii) Smt. Banam Lakshmi intentionally encashed the cheques issued between 08.04.2011 and 14.05.2011 with the help of the petitioner.

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These allegations are serious in nature, since the petitioner allegedly diverted the amount payable to the agriculturists, encashed some cheques, misappropriated the same and also issued some cheques to some of agriculturists, even without supply of paddy, as if he purchased paddy from them and these acts on its face value would constitute an offences punishable under Sections 406 and 409 of I.P.C.

The only contention of the counsel for the petitioner before this Court is that the petitioner is not an agent and the crime was registered about four years ago, the police did not file charge sheet till today.

Delay in filing charge sheet is not at all a ground to exercise jurisdiction under Section 482 Cr.P.C. the only test to be applied by the court is as to whether the uncontroverted allegations as made prima facie constitute the offence or not. Specific allegations made against the petitioner referred to above on its face value would constitute an offences punishable under Sections 406, 408 and 409 of I.P.C. in view of guidelines laid down by the Apex Court in **STATE OF HARYANA VS. BHAJAN LAL**¹ and in **MADHAVRAO JIWAJI RAO SCINDIA & ANR. VS. SAMBHAJIRAO CHANDROJIRAO ANGRE & ORS.**², therefore, I find no ground to quash the proceedings.

¹ (1992) SUPP (1) SCC 335

² AIR 1988 SC 709

Learned counsel for the petitioner requested this Court to pass an order not to arrest the accused, as the petitioner is intending to approach the court for pre-arrest bail.

But, such direction is contrary to the principle laid down by the Apex Court in **PARVINDERJIT SINGH AND ANR. V. STATE (U.T. CHANDIGARH) AND ANR**³, wherein the Apex Court while deciding the question whether a direction not to arrest a person in connection with non cognizable offence can be given, it was held that an interim order restraining arrest of a person charged with a cognizable offence, if passed while dealing with an application under Section 438 of Cr.P.C, will amount to interference in the investigation.

The principle laid down in the above judgment is directly applicable to the present case, for the reason that, while exercising jurisdiction under Section 482 of Cr.P.C, the Court cannot issue a direction not to arrest the petitioner, since it amounts to interference with the investigation, in view of the law declared by the Apex Court. Therefore, I find no ground even to grant of relief accepting the request of the petitioner, not to arrest the petitioner in connection with the above crime.

In view of my foregoing discussion, I find no ground to quash the proceedings at this stage, as the allegations made in the complaint on its face value would constitute an offences

³ AIR 2009 SC 502

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punishable under Sections 406, 408, 409 and 468 of I.P.C. Hence, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed. However, liberty is given to move appropriate court to avail appropriate relief.

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

M. SATYANARAYANA MURTHY, J

Date: 07.11.2016
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