**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL PETITION No.3703 OF 2016**

**ORDER:**

This Criminal Petition is filed by A.1 under Section 482 of Cr.P.C. seeking to quash the proceedings in C.C.No.350 of 2012 pending on the file of IV Additional Chief Metropolitan Magistrate, Vijayawada punishable for the offences under Sections 420 and 471 IPC.

It is the case of the prosecution that A.7 and A.8 supplied original empty forms of Provisional Certificates, marks list and degree certificates of Acharya Nagarjuna University to A.2 to A.5, who in turn prepared fake certificates in the names of the required candidates with the help of A.6 and sold the same by taking huge amounts. The allegation against A.1 is that he has purchased such forged educational certificates in his name as if they are issued by the Acharya Nagarjuna University that were prepared by the other accused and with those documents he has applied for F-1 Visa at the United States Consulate, Hyderabad and on suspicious, when the officials at Consulate insisted him, A.1 confessed that the documents submitted by him are fake. On the complaint of L.W.1-Michel Diamond, Assistant Regional Security Officer, Regional Security Office, US Consulate, Hyderabad, a case in Crime No.129 of 2011 was registered for the offences under Sections 420 and 471 IPC and after investigation, police laid the charge sheet against all the accused for the said offences.

During the course of investigation, the investigating officer examined the witnesses i.e. L.Ws.1 to 10. L.W.1 speaks about application of A.1 for U.S. Visa by submitting the fake educational documents and his lodging the complaint. L.W.2, who is the Consulate Section Chief, Consulate General of the U.S.A.

corroborates the evidence of L.W.1. L.W.3 is a student who did not complete B.Tech. He deposed that A.2 came to him and asked him to give Rs.35,000/- for which, he would prepare degree certificates and marks list to the effect that he had passed B.Tech in first class, but L.W.3 rejected the said proposal. He further deposed that even after his refusal of proposal, A.2 called him over phone and told him to take the certificates that were prepared on his name. L.W.4 is running Charter Den High Speed Internet Browsing Centre at Vijayawada. He deposed that A.6 used to come to his internet centre everyday and L.W.4 used to keep him at the centre in the afternoon when he go for taking lunch. He deposed that A.6 used to prepare forged B.Tech Marks list and certificates without his knowledge.

L.W.5 is the Registrar of Acharya Nagarjuna University and L.W.6 is the then incharge Registrar. They speak that the degree certificates and marks statements seized from the accused were not issued from their university. L.Ws.7 and 8 are the mediators to the confessional statements made by A.2 to A.8. L.Ws. 9 and 10 are the investigating officers, who registered the FIR, conducted the investigation and laid the charge sheet against the accused.

Heard the learned counsel for the petitioner-A.1 and learned Additional Public Prosecutor and perused the material available on record.

The petitioner herein is arrayed as A.1 on the basis of information given by L.W.2 to L.W.1, who in turn, lodged a complaint against the petitioner herein. As far as the petitioner is concerned, the petitioner was not identified during the course of investigation by L.W.1 or by L.W.2 to the effect that he is the person who produced the seized documents which are alleged to be forged in nature. The investigating agency is also failed to investigate into the matter to attract an offence under Section 468 IPC. Without there being any investigation as to attract an offence under Section 468 IPC, the offence under Section 471 will not stand to the scrutiny of the Court since Section 471 IPC speaks about production of forged document as genuine one.

The investigating agency further failed to connect the petitioner with the crime except on the alleged statement of the petitioner to L.W.2. Even as far as the offence under Section 420 IPC is concerned, it is not the case of the prosecution that the said offence is committed, but at the most it is only an attempt even according to the material available on record. The investigating agency charge sheeted the accused only for an offence under Section 420 and 471 IPC and even though eight persons are arrayed as accused, the investigating agency did not choose to file the charge sheet invoking the provision under Section 34 or 120-B IPC. The alleged documents that were filed by the petitioner are in the nature of affidavit filed by the parents and friends of the petitioner, but they were also not examined by the investigating agency to substantiate the fact that those documents were filed by them.

The entire investigation proceeded in this case is only on the basis of alleged statement of the petitioner and the alleged confessional statement of other accused during the course of investigation. Further the investigating agency failed to substantiate the fact that the documents produced by the petitioner are forged by examining the signatures and handwritings on the documents alleged to have been forged, by any scientific method. The Investigating agency did not choose to send the documents produced by the petitioner to the handwriting expert for obtaining opinion as to the genuineness of the documents. In view of the forgoing discussion, this Court is of the view that the impugned proceedings are liable to be quashed against the petitioner.

In the result, the Criminal Petition is allowed and the proceedings in C.C.No.350 of 2012 pending on the file of IV Additional Chief Metropolitan Magistrate, Vijayawada are hereby quashed as against the petitioner herein.

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

JUSTICE RAJA ELANGO

22.07.2016
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