

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No. 2260 of 2013

ORDER:

This petition is filed by the accused under Section 482 Cr.P.C, seeking quashment of the proceedings in CC No. 96 of 2012 on the file of learned Judicial Magistrate of First Class, Chintalapudi.

2. The Police of Chintalapudi Police Station laid charge sheet against the petitioner for the offence under Sections 420 and 506 IPC, on the allegation that the accused was the subscriber in Usha Bala Chits Private Limited, Eluru for a sum of Rs. 1,00,000/-, wherein the complainant stood as guarantor and when the accused failed to remit monthly premium to the chit fund company, they filed O.S.No. 324 of 2002 on the file of Additional Junior Civil Judge, Eluru for recovery of the amount from the monthly salary of the de-facto complainant, who was working as teacher at that time and accordingly a decree was passed for recovery of the suit amount at the rate of Rs. 3,083/- per month from the salary of the de-facto complainant and for 11 months the said amount was deducted. The accused has given two months premium of Rs. 6,166/- to the de-facto complainant and when he failed to pay remaining nine months premium to him and

when the de-facto complainant demanded the said amount, the accused put his words in deaf ear. Hence, the charge sheet.

3. Learned counsel for the petitioner submits that even if the charge sheet has been taken into account, charge under Section 420 IPC is not maintainable as there is no allegation regarding the element of cheating on the part of the accused since inception and similarly the offence under Section 506 IPC has also no application, therefore, he prayed to allow the petition and quash the proceedings.

4. Learned Public Prosecutor opposed the same.

5. It is seen that charge sheet was laid and CC was also numbered. As the matter stands, it is not appropriate to quash the proceedings. On the other hand, the petitioner/accused can move an appropriate application to discharge him with the pleas legally available to him.

Therefore, this Criminal Petition is disposed of with the observation that the petitioner/accused is at liberty to move an appropriate application before the trial Court seeking discharge and thereupon the trial Court shall pass appropriate orders on merits. The presence of the accused before the trial Court is dispensed with except on the occasions when the trial Court needs his presence. As a sequel thereto, miscellaneous applications, pending if any,

shall stand closed.

Date: 01.03.2016
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U.DURGA PRASAD RAO, J