

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1797 OF 2015

K. Raghava Reddy

.....Petitioner

V/s.

Suresh Sapre and Ors.

.....Respondents

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Mr. T. Sridharan a/w. Mr. Jeetendra Ranawat i/by. Waquar Ahmad,
Advocate for the petitioner.

Mr. V.V.Gangurde, APP for respondent, State.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 1ST MARCH, 2017.

P.C. :-

1). This petition is by accused no.1 in R.C.C. No. 150 of 1999 pending in the Court of Judicial Magistrate First Class, Court Room No-9, Pune filed for the offences punishable under Sections 193, 196 to 200, 418, 465, 471 Indian Penal Code against him, respondents no.2 and 3 and two others. Respondent no.1 is the original complainant. It is alleged in the complaint that, an advertisement

had been issued on behalf of Reliance Cybertech Pvt. Ltd, Hyderabad and or behalf of Kinetic Communications Ltd. in Times of India and other papers of SAP R/3 Worlds leading Enterprises Resource Planning, implementation center of original accused no.5, Pune being jointly organised by them. The advertisement confirmed that the training imparted would be by a group of functional specialist with real time experience on SAP R/3 together with latest training tools, hands-on experience and project work. As per the complaint, by the letter dated 19th May, 1998 the two companies approved the profile of respondent no.1 and offered job assignment in United States of America after 5 months of in-house training and 6 months of job training in India. The remuneration in US Dollars was 48,000 US \$ per year plus 10% of the billing per month. During the classroom training, they offered respondent no.1 a stipend of Rs.5,000/- per month and also made an offer of Rs.20,000/- per month when respondent no.1 was on the job training in India. The fees for the programme was Rs.2,51,000/- which was inclusive of registration and training fees, H1 Visa processing fees, and one way flight ticket to the United States of America. Respondent no.1, accordingly accepted the offer of 19th May, 1998 and paid a sum of Rs.2,51,000/- towards the training.

2). On 22nd July, 1998 respondent no.1 was made to sign agreement with Cyber Solutions Int'l Inc. USA under which the petitioner and the other accused undertook to provide employment visa, employment in USA and pay for relocation. During training, respondent no.1 realised that, this trainer had no real time experience. Further, respondent no.1 was compelled to impart

training to fresh recruits. In the month of April, 1999 respondent no.1 was handed over L-1 P Visa for USA. On perusal of the papers, respondent no.1 realised that, all accused persons had made false misrepresentations to U.S. Justice Department in respect of terms of employment in order to obtain L-1 P Visa for respondent no.1 without even his knowledge.

3). The Courts below, have found that the contents of application and the evidence adduced on record by respondent no.1, *prima-facie*, reveal that the petitioner and other accused have made false representations in respect of the employment with the sole intention of cheating respondent no.1 and also made a false representations to U.S. Justice Department in respect of the terms of employment in order to obtain L-1 P Visa for respondent no.1, without his knowledge. The trial Court, by its order dated 1st September, 2014 issued process against accused nos.1, 2, 4 and 5 for the offence punishable under Sections 418, 465 and 417 read with Section 34 Indian Penal Code. The Sessions Court, confirmed that order by dismissing the petitioner's challenge thereto vide Criminal Revision Application No. 583 of 2014.

4). Mr. Sridharan, learned Advocate appearing for the petitioner, submits that the allegations made including the advertisement issued, cannot be attributed to the applicant herein who is the Chairman of M/s. Reliance Cybertech Pvt. Ltd. According to him, the advertisement had been issued by Kinetic Communications Ltd. Respondent no.2 is the Executive Director of Kinetic Communications Ltd.

5). Perusal of the complaint, the evidence recorded shows that the advertisement had been issued by both the companies making a specific representation as regards the training as also the employment. These representations were not fulfilled. Further, there was no employment secured. In the circumstances, the findings of the Courts below that, there is sufficient material on record to proceed against the applicant and other accused persons is seen justified and hence does not need interference. The petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)