HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6994 of 2017

ORDER:

The petitioner is accused No.1 in C.C. No.29 of 2017 on the file of XXI Metropolitan Magistrate, Cyberabad at Medchal, which was taken cognizance for the offence punishable under Section 75 of Telangana Chit Fund Act, which is an outcome of Crime No.11 of 2016 of SHO, Alwal, Cyberabad, on the report of 2nd respondent—*defacto* complainant by name Pesari Vanaja Reddy, dated 04.01.2016. The petitioner is now seeking to quash the said proceedings.

2. A perusal of the report reads that accused No.1—V.Sandhya Rani is doing business and money lending by staying at Alwal and her son, by name Srinath, and brothers viz., Amarender and Srinivas Rao, have collected huge amounts of money, more than one crore, from the husband of the *defacto* complainant and from the innocent public on the false promises of lucrative benefits with a view to make fast money, to dupe and cheat with dishonest intention. The husband of *defacto* complainant died on 21.07.2015 leaving behind herself and two children due to liver problem at Apollo Hospital, Secunderabad. In his lifetime, he had a bank account in Corporation Bank, Alwal. Her husband had Real Estate business and landlord, who sold out the agricultural lands at Bowrampet Village, Quthbullapur Mandal, Ranga Reddy District, covered by registered sale deed bearing document Nos.7057 to 7060 of 2012 dated 21.06.2012, and while withdrawing money from the above said bank, one Venkateshwar Rao, who used to work as a cashier in Corporation Bank, Alwal,

asked him to go in for monthly chits, which may help in Real Estate Ventures and the said Venkateshwar Rao has introduced his wife by name Sandhya Rani, and the couple have made him to believe to invest in monthly chits to expand his business more, for which her husband is guaranteed for the chit transactions of husband of the *defacto* complainant, as Venkateshwar Rao was working in Corporation Bank, as such the husband of the *defacto* complainant was trapped by sugar coated words to invest in chits of Rs.5,00,000/- chits X 6=30,00,000/- i.e., Rs.20,000/- X 6= Rs.1,20,000/- per month and Rs.3,00,000/- chits X 6 = Rs.18,00,000/- i.e., Rs.12,000/- X 6=Rs.72,000/- per month, totally Rs.48,00,000/- and the chit tenure was of 25 months and totally monthly subscription of 12 chits were given in the form of a cheque in the account of accused No.1. Later, the husband of *defacto* complainant was bedridden, out of the 12 chits only one chit of Rs.5,00,000/- drawn, for that an amount of Rs.4,76,250/- was paid to the husband of *defacto* complainant on 27.05.2014. Later, when the entire chits monthly subscription was paid and after deduction of chit commission, the accused No.1 informed to the husband of *defacto* complainant that she has to pay an amount of Rs.43,23,750/- after deducting the commission for other chits, and even though the *defacto* complainant demanded to pay, the accused No.1 was delaying since August, 2014 on one pretext or the other. Meantime, the husband of *defacto* complainant died on 21.07.2015. Thereafter she met the said Sandhra Rani for the amounts, which were demanding from September, accused No.1 abused her and her children for the demands with a threat to eliminate them even they roped and cheated the public and the *defacto* complainant came to know that accused No.1 purchased properties in the name of accused No.2 and herself and they are in abscondance, thereby to take action.

3. According to the *defacto* complainant, her husband died on 21.07.2015 and in his lifetime, he did not choose to give any complaint with regard to chit transactions. Even though the *defacto* complainant demanded, accused No.1 refused or abused, including on 17.11.2005 and there is no explanation as to why they waited thereafter till giving report only 04.01.2016. what she stated is earlier to the dated 18.11.2015 given to police that order in W.P No.38703 of 2015 dated 27.11.2015 those particulars are not even furnished. The police, after so-called investigation by registering the crime against accused No.1—quash petitioner, her son—Srinath and brothers viz., Amarender and Srinivas Rao, ultimately filed final report only against accused No.1, but not charge sheeted the other accused, saying for the offence punishable under Section 75 of Telangana Chit Fund Act. The investigation discloses that Venkateshwar Rao, who is husband of accused No.1, working in Corporation Bank, Alwal, and because of acquaintance with the husband of *defacto* complainant, there are financial transactions between them vide cheque No.47417 of which A.1 has a joint account with her husband in the said Corporation Bank. According to the *defacto* complainant, her husband invested in 12 chits. The husband of A1 by name Venkateshwar Rao died on 18.07.2014.

4. Though notice was served on the respondent No.2—*defacto* complainant for furnishing relevant particulars and documents, if

any, in support of her version, she did not turn up with any information to investigate the case. As seen from the bank statements only 33 lakhs has been returned to the *defacto* complainant's husband account by accused, though *defacto* complainant in her complaint says as if accused returned only Rs.4,76,250/- and, in fact, the *defacto* complainant's husband Veera Reddy withdrawn vide his cheque bearing No.03581 a sum of Rs.1,50,000/- only. As can be seen from the bank statement of him dated 28.09.2013, what the *defacto* complainant says that the amount transferred to accused account is not correct therefrom.

5. It is also mentioned that even after the husband of accused No.1 died in July 2014, the husband of the *defacto* complainant was alive for more than a year and he never made any complaint regarding financial transaction made by him with that of the accused and her husband, except her filing the complaint more than 1 ½ years after the death of husband of accused No.1 and even after death of husband of *defacto* complainant. It is therefrom held that no offence under Section 5 of Telangana Protection of Depositors Financial Establishment Act, 1999 or under Section 420 IPC would be made out against accused No.1, leave about no offence made out against accused Nos.2 to 4, but for, if at all to say, accused No.1 cheated not only the society but also her husband Venkateshwar Rao in maintaining the unauthorised chit, which is punishable under Section 75 of the Chit Fund Act.

6. The quash petition averments show that the contents of the police final report under Section 75 of the Act is untenable, but the

same no way attracts and it speaks about the powers of Magistrate to give extension of time for filing documents etc., thereby the said offence is also liable to be quashed. Mentioning of the said penal provision is unsustainable and continuation of the proceedings for the said offence is nothing but abuse of process of law is liable to be quashed.

7. Notice sent to 2nd respondent—defacto complainant is retuned as unserved with an endorsement of 'seven days continuously door lock'. Hence the same is held as a sufficient service.

8. Heard learned counsel for petitioner/ accused No.1 and learned public prosecutor representing the 1st respondent—State and perused the quash petition averments and police final report.

9. Apart from the said penal Section no way attracts, there is nothing even to say that there were any chit transactions, for what the police final report says not even a scrap of paper that was filed by the *defacto* complaint despite demands made to adduce evidence, thus suffice to say that the cognizance order of the learned Magistrate, even from the offence under Section 75 of the Act is unsustainable, having held no offence made out against accused No.1

10. Accordingly and in the result, the Criminal Petition is allowed and the proceedings in C.C. No.29 of 2017 on the file of XXI Metropolitan Magistrate, Cyberabad at Medchal against petitioner/ accused No.1 are hereby quashed. The bail bonds of the petitioner/ accused No.1, if any, shall stand cancelled.

11. Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.14.11.2017
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