

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL PETITION No.9780 of 2011

ORDER:

Heard the learned counsel for the petitioner, learned Public Prosecutor as well as the second respondent.

2. The petitioner who is A-3 filed the present criminal petition to quash the proceedings initiated against him for the offences punishable under Sections 403, 406, 408, 420, 387, 389 r/w Section 34 of IPC in C.C.No.600 of 2010 on the file of the Additional Junior Civil Judge, Mangalagiri.

3. The gravamen of the charge is that the second respondent herein filed a private complaint against the petitioner herein and two others on the file of the Additional Junior Civil Judge, Mangalagiri. In the complaint it is stated that the second respondent is carrying on profession as goldsmith in manufacture and sale of gold jewellery of different items. The first accused is professing as line agent/salesman of gold jewellery on behalf of the manufacturers of gold jewellery at Mangalagiri town by delivering the articles to shop owners all over the state. The second accused is the brother and the third accused who is the petitioner herein is brother-in-law of the first accused. In the process of professional and business activities, the second respondent and Nandam Venkata Siva Sai Prasad of Atmakur village who is also carrying on the same profession as that of the second respondent used to engage the services of the first accused as agent on commission

basis for sale of the articles prepared by them. Out of confidence reposed in first accused, the second respondent entrusted gold jewellery articles weighing about 500 grams of pure gold worth Rs.8,35,000/- and Venkata Shiva Prasad entrusted gold articles worth Rs.5,01,000/- to the first accused for sale in the market. However, the first accused failed to hand over the sale proceeds to the second respondent and another on the ground that due to disturbance in Telangana agitation, the shop-keepers are delaying the payments and thereby evaded payments. They have realized that the first accused is not co-operating with them and having entertained suspicion about the attitude of the first accused, they enquired with the shop-keepers at Hyderabad and they were shocked to know that the first accused has already received sale proceeds long back. Whereupon when they questioned the first accused about illegal acts committed in receiving the amount by cheating with false representation, the accused Nos.2 and 3 which include the petitioner herein, with litigant attitude interfered on behalf of the first accused and both of them threatened the complainant and another with dire consequences and to do whatever they like. Further, all the accused threatened that if the second respondent again questions about the issue, the second respondent and another will be involved and incriminated in false cases to be foisted by them punishable with life imprisonment. Therefore, a private complaint was lodged. The said complaint was referred to the police under Section 156 (3) Cr.P.C. whereupon a crime was registered vide F.I.R. NO.69 of 2010 for the offences referred supra. After investigation, police have filed the charge

sheet on 25.10.2010 before the Additional Junior Civil Judge, Mangalagiri. After filing of charge sheet, the court below has taken cognizance of the same and numbered as C.C.No.600 of 2010.

4. Aggrieved by the same, the present complaint is filed. It is contended by the learned counsel for the petitioner that the contents of the charge sheet will not satisfy any of the ingredients of the offences leveled against the petitioner. The allegations are made only against the first accused and there is no allegation against the petitioner herein. That apart, the learned counsel for the petitioner also submitted that according to the nature of the allegations levelled in the complaint as well as in the charge sheet, no case is made out against the petitioner and therefore, sought to quash the proceedings against the petitioner.

5. Per contra, the learned counsel for the second respondent contended that there are specific allegations not only in the complaint but also in the charge sheet filed after investigation that the petitioner herein and A-2 intervened on behalf of A-1 and threatened the second respondent and another with dire consequences and challenged to do whatever they like and further all the accused challenged second respondent and another that they would foist criminal cases punishable with life imprisonment if they question about the issue again.

6. A perusal of charge sheet would clearly reveal that specific allegations are made against the petitioner herein along with A-2. It is an admitted fact that A-1 was active as an agent on behalf of the second respondent and another in selling the gold jewellery on

commission basis. In the course of business, the first accused failed to repay the amounts due to the second respondent and another. In that connection, the second accused and petitioner herein intervened on behalf of A-1 and threatened the second respondent and another. Whether these allegations are true or not cannot be decided at this stage under Section 482 Cr.P.C. The scope of Section 482 Cr.P.C. is already well defined by this Court and the Apex Court. The criminal proceeding can be quashed only to avert abuse of process of court and to meet the ends of justice where the continuation of the criminal proceedings would be futile when there is no possibility of conviction against the accused persons. However, in the case on hand, in the light of the specific allegations made against the petitioner herein, this court is not inclined to interfere with the case at this stage.

7. For the foregoing reasons, the criminal petition is dismissed. The miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Interim order, if any, passed by this court shall stand vacated.

JUSTICE P. KESHA RAO

Date: 24.10.2017
Ccm

THE HONOURABLE SRI JUSTICE P. KESHAVA RAO



CRIMINAL PETITION No.9780 of 2011

Date:24.10.2017

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