

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2061 OF 2017

ORDER:

The present criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') requesting to quash the proceedings in Crime No.22 of 2017 on the file of Pulivendula P.S., Kadapa District.

2. The petitioner/accused alleged to have committed the offences punishable under Sections 365 & 323 read with Section 34 of I.P.C.

3. Heard Sri Ravulapalli Venkata Rao, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioner pleaded innocence and false implication of the petitioner contending that since the petitioner herein filed a complaint against the 2nd respondent/*de facto* complainant for the offence punishable under Section 138 of the Negotiable Instruments Act and also for the offence under Section 420 of Indian Penal Code (IPC), cheque issued by the 2nd respondent/*de facto* complainant was bounced on the ground "funds insufficient", which intimation was received through Memo from Axis Bank, Sullurpeta, SPSR Nellore District, the 2nd respondent/*de facto*

complainant with malice foisted the present case alleging that his son was abducted by the petitioner.

5. The learned Additional Public Prosecutor would contend that the complaint *ex facie* reflects the overt acts of the petitioner and others who took away the son of the *de facto* complainant coming in two vehicles, Indica and Innova, by even pushing aside the wife of the *de facto* complainant, when they were questioning as to why they were taking away their son.

6. On examination of the complaint averments they do contain *prima facie* allegations making out a case against the petitioner even at this stage. Therefore, the defence that when the complainant filed a complaint against the 2nd respondent/*de facto* complainant under Section 138 read with Section 141 of the Negotiable Instruments Act and Section 420 of I.P.C. is not a ground to quash the proceedings in the present calendar case. At the most, the petitioner can place the material before the investigating officer during collection of evidence by him.

7. Hence, the Criminal Petition is dismissed. Learned counsel for the petitioner urges to give a direction to the Investigating Officer to follow the procedure prescribed under Section 41-A of the Code. Since both the offences are punishable with imprisonment not exceeding seven years, the investigating officer is directed to follow the procedure inlaid in Section 41-A of the Code.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

Dt. 23.03.2017
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