

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1907 OF 2017

ORDER:

The present petition is filed under Section 482 of the Criminal Procedure Code, 1973, (for short, 'the Code') requesting to quash the First Information Report in Crime No.96 of 2017 of Malkajgiri P.S., Rachakonda District.

2. The petitioner is the sole accused in the aforesaid crime. He alleged to have committed the offence punishable under Section 420 of I.P.C.

3. Heard Sri Shafath Ahmed Khan, learned counsel for the petitioner, and learned Additional Public Prosecutor for the State of Telangana.

4. Learned counsel for the petitioner has pleaded innocence and false implication of the petitioner. It is his submission that even if the contents of First Information Report are treated true, though not admitting, still they do not make out a case against the petitioner/accused for the offence punishable under Section 420 of I.P.C. as the dispute is only of civil nature, and, therefore, to quash the proceedings in the aforesaid crime.

5. Learned Additional Public Prosecutor for the State of Telangana would submit that the allegations in the First Information Report would, *prima facie*, make out a case against the

petitioner/accused for the offence punishable under Section 420 of I.P.C. and as it is a fit case, not to quash the proceedings at the threshold as the investigation is under progress.

6. Perused the complaint and other material on record. The complaint would reflect that the petitioner projected himself as owner of the building bearing Plot No.207, Dayanand Nagar, Malkajgiri, though he was, actually, a tenant, which came to light later, doing business. But, somehow, he came into contact with the 2nd respondent/*de facto* complainant in connection with business of Cashew Nuts and during December, 2016 and January, 2017 he had taken Cashew Nuts worth Rs.39,18,000/-, agreeing to pay the amount in installments by signing on statement as he used to pay back the amount on earlier occasions when he took Cashew Nuts and under the said impression Cashew Nuts were supplied to him, as he had promised to pay the said amount. But, he avoided her on one pretext or the other taking demonetization situation and also representing that some people were due amounts to him, and, thus, expressed inability and later when she called him on phone on 3rd January, 2107 his phone was in switched off mode and when the complainant went to his house she found the house locked and when enquired the opposite house owner he informed her that the petitioner vacated the premises and the complainant has been pressurized by the persons who supplied Cashew Nuts and during business connections the petitioner has given

personal cheques, but the complainant found that there was no money in the account and feeling that she was cheated, lodged the complaint.

7. Learned counsel for the petitioner also refers to the notice got issued by the petitioner to the *de facto* complainant dated 23.2.2017, complaining that the petitioner and her husband are in possession of eight cheques illegally and directed them to return the cheques claiming that the entire amount for purchase of Cashew Nuts of Rs.26,00,000/- was paid and, therefore, if the complainant has any grievance she ought to approach the Civil Court.

8. Now, turning to the plea of the petitioner as to discharge in case an amount of Rs.26,00,000/- was already paid, nothing prevented the petitioner in describing the mode of payment either by cheque or by cash and the details thereof. The petitioner has not given proper address also as to where he has been putting up when the said notice was given. Thus, even at this stage, the allegations in the complaint would make out a *prima facie* case against the petitioner for the offence punishable under Section 420 of I.P.C. since not only the petitioner vacated the premises, but in fact said to have represented that he owns a house, which was taken on rent, and even not keeping any amount in his account and, still, further issuing notice stating that he has paid the entire amount of Rs.26,00,000/- without giving any relevant details.

9. Therefore, the allegations require a probe, which cannot be stalled. Accordingly, the Criminal Petition is dismissed.

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

A. SHANKAR NARAYANA, J

Dt. 20.03.2017

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