

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.3672 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioner in Crime No.18 of 2011 on the file of Thallur Police Station, Prakasam District.

2. Heard the counsel for the petitioner and the learned Public Prosecutor appearing for the first respondent. None appears for the 2nd respondent in spite of notice.

3. The allegations in the complaint are that the complainant is a TV9 reporter and he went to Chennai on his personal work on 15.04.2010. On 16.04.2010, while the complainant was in Chennai, some people representing to be TV9 reporters called the PA of the MLA, Darsi and talked with him in obscene manner and the said PA in turn called the District TV9 Reporter, Feroz Baig and took the matter to him and the said Feroz Baig, in turn, enquired with the complainant in order to know as to what happened. The complainant telephoned to the number from which the phone call was received and then the person on the other side of the phone abused him and threatened him that he would get him removed from his job by talking to his superiors. On further enquiry, it came to light that the said person, who made a phone call, is not in any way related to TV9 news channel.

4. From a perusal of the aforesaid allegations, it is clear that the question of cheating, to attract the offences under Sections 419 and 420 IPC does not arise. The cheating, as defined under Section 415 IPC, should involve a delivery of property to any person or there should be inducement of the said person to do or omit to do anything which he would not do or omit to do if he is not so deceived. The allegations in the complaint are not to the effect that the person, who received the phone call did or omitted to do something which he would have not done or omitted to do otherwise. Hence, the offences under Sections 419 and 420 IPC are not attracted and continuation of the proceedings against the petitioner for the said offence would only result in abuse of process of law.

5. The allegations insofar as the offence attracting Section 506 IPC are concerned, seems to be spelled in the complaint. Hence, the proceedings to that extent cannot be quashed.

6. However, considering the request of the petitioner's counsel that the petitioner may be safeguarded from arrest, the police are directed to follow the guidelines enunciated by the Supreme Court in *Arnesh Kumar v. State of Bihar and another (Crl.Appeal No.1277 of 2014)*¹, before affecting the arrest of the petitioner.

6. With the above observations, the Criminal Petition is partly allowed quashing the proceedings in Cr.No.18 of 2011 only insofar as the offences punishable under Sections 419 and 420

¹ (2014) 8 SCC 273

IPC against the petitioner are concerned and the proceedings against the petitioner insofar as the offence under Section 506 IPC may go on. Interim stay, granted by this court in CrI.P.M.P.No.3926 of 2011, dated 28.04.2011, shall stand vacated.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

December 8, 2017
LMV

T. RAJANI, J

