HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3382 OF 2017

ORDER:

The present Criminal 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.32 of 2017 of Charminar Police Station, Hyderabad.

2. The petitioners are arraigned as accused Nos.1 to 4. They alleged to have committed the offence punishable under Section 420 of IPC.

3. Heard Sri D. Suresh Kumar, the learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel for the petitioners would submit that the present case is converted into criminal action deliberately though, it is purely civil dispute even if the allegations are construed to be true without admitting the same. His further submission is that there were business transactions between the 2nd respondent/*de facto* complainant and the 1st petitioner. In that connection, the 1st petitioner used to purchase readymade clothes from the 2nd respondent on credit, and only he could not sell away the readymade clothes purchased as they were of substandard and cheap quality garment material, and, though, the 1st petitioner requested the 2nd respondent to take back the material

at least half of the value worth Rs.4 lakhs, the said proposal was not considered by the 2nd respondent and in fact threatened the 1st petitioner and his family members that he would not leave them. It is also his submission that the 2nd respondent has got issued two legal notices dated 5.8.2015 and 21.10.2016 respectively, which would reflect that the 1st petitioner issued cheques and when sought to be encashed by the 2nd respondent they were bounced, and, hence, the 2nd respondent has filed cheque bounce cases against all the bounced cheques, and, therefore, the present complaint is false and sought to quash the proceedings.

5. The learned Additional Public Prosecutor for the State of Telangana would submit that the crime is under investigation and truth can be found out only when the investigation is completed, and, therefore, to dismiss the criminal petition.

6. Perused the complaint, dated 15.3.2017. The complaint refers to the details of invoices under which the readymade clothes were supplied to the 1st petitioner at Godavarikhani where the 1st petitioner is carrying on business and when he approached the 1st petitioner, he found the 2nd petitioner was also there and both of them assured that they would take the responsibility for repayment of the amount of Rs.8,10,000/-, but, later, did not respond and on the last occasion when he tried to meet them he learnt that all the petitioners jointly wound up the business by selling away the shop, and, therefore, states that there is every possibility that they would abscond by not repaying

the said amount and later, when he again approached them, they tried to manhandle and abused him in most filthy language, threatening him with dire consequences and he, somehow, escaped from the clutches with the help of by-passers and lodged the complaint.

7. Thus, a cursory glance at the complaint would not refer to any acts on the part of the petitioner Nos.3 and 4. The *de facto* complainant only refers to the names in the subject of the complaint but when it came to the details mentioned in the body of the complaint no-where any whisper is made so far as petitioner Nos.3 and 4 are concerned, but only in penultimate paragraph he would state that the subject cited persons have jointly wound up the business by selling out the shop and there is every possibility that they would abscond by not repaying the said amount, etc.

8. In case the petitioner Nos.3 and 4 did join the petitioner Nos.1 and 2, certainly, the details in regard to their participation in the commission of the offence ought to be found in the complaint allegations. In such an event, certainly, it cannot be said that there are *prima facie* allegations as to the complicity of the petitioner Nos.3 and 4 in the commission of the offences alleged. Therefore, the petitioner Nos.3 and 4 are entitled to quashment of First Information Report registered against them.

9. Concerning the petitioner Nos.1 and 2, it is no doubt true that in the grounds they have got mentioned that the 1st petitioner had issued

cheques and even cheque bounce cases have been filed by the *de facto* complainant, but, the relevant details are not forthcoming therein. The present crime is under investigation. In such an event, unless the investigation is completed the truth in the allegations so far as petitioner Nos.1 and 2 are concerned cannot be unravelled. Hence, so far as petitioner Nos.1 and 2 are concerned, their request is rejected by dismissing the present Criminal Petition.

10. Therefore, the Criminal Petition is partly allowed quashing the First Information Report so far as petitioner Nos.3 and 4 viz., Mirza Sulaman Baig and Mirza Sajid Baig are concerned while dismissing the request so far as petitioner Nos.1 and 2 viz., Mirza Sayeed Baig and Mirza Shamsheer Baig are concerned.

As a sequel thereto, miscellaneous petitions if any pending in the Criminal Petition shall stand closed.

A.SHANKAR NARAYANA

Date:05.06.2017.
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