

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.621 OF 2017

ORDER:

The present Criminal Petition is filed requesting to quash the proceedings in C.C.No.1474 of 2013 on the file of XI Additional Chief Metropolitan Magistrate, Secunderabad.

2. The petitioner is arraigned as accused No.1 in the aforesaid Calendar Case and alleged to have committed the offences punishable under Sections 420, 406 and 120-B I.P.C., along with three more accused.

3. Sri K. Durga Prasad, learned counsel for the petitioner, would submit that this Court, by order, dated 17.10.2016, in CrI.P.No.3783 of 2014, quashed the offence punishable under Section 406 I.P.C., and in view of the compromise entered into between the petitioner and respondent No.1 – *de facto* complainant, so far as the offence punishable under Section 420 I.P.C. is concerned, compromise order, dated 04.01.2017, was passed in CrI.M.P.No.41 of 2017 in the aforesaid Calendar Case, a copy of which is filed at Page No.47 of the material papers, but as the offence under Section 120-B I.P.C. is not compoundable, compromise could not be effected so far as it is concerned. He further submits that since the offence under Section 120-B I.P.C. is a consequential penal provision clutched along with the offence punishable under Section 420 I.P.C., when the offence under Section 420 I.P.C. is compromised, the offence under Section 120-B I.P.C. would not sustain. He further submits that in the order passed by this Court in CrI.P.No.3783 of 2014, at Page No.13, this

Court, incidentally, has shown the offence as punishable under Section 420 read with 120-B I.P.C., while making observation that there are no grounds to quash the proceedings so far as the said offence is concerned.

4. Sri S. Sambasiva Rao, learned counsel for respondent No.1 – *de facto* complainant, would represent that the matter was already compromised and respondent No.1, having taken money, left abroad and is staying there. He further submits that no dispute is in existence between the parties now and, therefore, he would express no objection for quashing the offence under Section 120-B I.P.C. also.

5. When this Court, in the aforesaid Criminal Petition, referred the offence as Section 420 read with 120-B I.P.C., certainly, it has to be viewed that Section 120-B arises in view of clutching of the offence punishable under Section 420 I.P.C. and not as an independent offence.

6. In that view of the matter, the present Criminal Petition is allowed quashing the proceedings in C.C.No.1474 of 2013 on the file of XI Additional Chief Metropolitan Magistrate, Secunderabad, so far as the petitioner – accused No.1 is concerned, even with regard to the offence under Section 120-B I.P.C. is concerned, though, there is no need to mention so.

7. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 01, 2017.
MD