

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.1280 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, by the petitioner- Accused No.1 requesting to quash the proceedings in Crime No.250 of 2016 of P.S.Chintalapudi, West Godavari District, Andhra Pradesh.

The petitioner alleged to have committed the offences punishable under Sections 376 (2) (m), 417, 420 and 506 read with 34 IPC. In the present crime, there are two more accused, but they are not parties to the present petition. In the relief portion of the petition, the petitioner mentions the offences punishable under Section 376 (i) or 376 (ii) in the context of referring that these provisions do not attract the case alleged against him.

Sri M.P.V.N.V.Sastry, learned counsel for the petitioner, would mainly submit that the provisions under Section 376 (2) (m) of IPC would not attract and the Investigating Officer has to explain whether it is sub-section (n) or (m) of Section 376 (ii) of IPC that is clutched in the present case. Learned counsel has also drawn the attention of this Court to the complaint averments. It is according to him that the offence punishable under Section 420 IPC is also not maintainable as there is no conversion of valuable security involved as required under Section 415 of IPC, which defines the expression 'cheating' and which expression is

also mentioned in Section 420 IPC. It is unnecessary to refer to the facts narrated in the complaint. It is suffice to observe that, having gained acquaintance with the *de facto* complainant and lured her that he would marry her, as shown in the complaint, the petitioner alleged to have repeatedly used the *de facto* complainant for sexual acts and finally rejected her. In such a situation, certainly, it is not a case to quash the proceedings merely on the ground that Section 376 (2) (n) or (m) IPC would attract. It is for the Investigating Agency after conclusion of the investigation, basing on the material collected, to arrive at the exact provisions of law or the provisions of the Indian Penal Code that would attract. So far as the offence punishable under Section 420 IPC is concerned, it cannot be said that the present fact-situation would not fit into. Therefore, it is not a case where the First Information Report can be quashed as sought for by the petitioner.

Accordingly, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in the present petition, stand closed.

JUSTICE A.SHANKAR NARAYANA

15.02.2017

v v