

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 8123 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.837 of 2008 on the file of IV Additional Judicial Magistrate of First Class, Kakinada.

2. The brief facts of the case of prosecution are that the 2nd respondent gave a written report to the III Town (L&O) Police Station, Kakinada, stating that his son is working as Home Guard and he attended for selection to the post of Constable. The petitioner/accused promised to secure Constable job to his son and took an advance amount of Rs.10,000/- out of the total agreed amount of Rs.1,50,000/-. Thereafter, the petitioner asked for the remaining amount of Rs.1,40,000/- and obtained his signatures on three blank promissory notes. Later, the 2nd respondent came to know through internet that his son got Constable job under Home Guard Quota. When the 2nd respondent asked the petitioner to return the money of Rs.10,000/-, the petitioner started blackmailing him by showing the blank promissory notes and therefore, lodged a complaint before the police to take action against the petitioner. The police registered the complaint as Crime No.142 of 2008 for the offence punishable under Section 420 IPC, and investigated the matter and filed charge sheet in C.C.No.837 of 2008 on the file of IV Additional Judicial Magistrate of First Class, Kakinada.

3. Heard the learned counsel for the petitioner, and the learned Public Prosecutor for the State.

4. Learned counsel for the petitioner submits that the accused had filed O.S.No.641 of 2008 for recovery of money basing on a promissory note alleged to have been executed by the defacto complainant. The accused is the plaintiff and the defacto complainant is the defendant in the said suit. The defendant filed written statement in the suit by taking a plea that the plaintiff has forged his signature on the promissory notes and filed the suit. Subsequently, the defendant had lodged a complaint with the police making allegations against the petitioner. It is further submitted that either in the complaint made before the police or in the charge sheet filed by the police, no ingredients attracting offence punishable under Section 420 IPC is made out.

5. At the outset, the complaint lodged by the defacto complainant is abuse of process of law. The complainant had entered into an illegal agreement with the petitioner. It is opposed to public policy. Securing a job on payment of money is an illegal act and the police ought to have registered a complaint against the defacto complainant for his illegal act. The sum and substance of the complaint is that the complainant wanted support to his illegal agreement between him and the petitioner. No Court should take cognisance of such illegal agreements for

registering the complaints. The material on record shows that the petitioner was in possession of blank promissory notes signed by the complainant. It is purely a civil matter. It is obvious that there is a civil transaction between the parties. The petitioner filed a suit based on promissory notes against the defacto complainant. This is sheer abuse of process of Court. The complainant may seek civil remedies before appropriate forum.

6. In view of the facts and circumstances of the case, and considering the material on record, this Court is of the considered view that the ingredients of Section 420 IPC are not attributable to the petitioner/accused in this case based on an illegal agreement. This is sheer abuse of process of Court and therefore, the proceedings initiated against the petitioner/accused are liable to be quashed.

7. In the result, the criminal petition is allowed quashing the proceedings in C.C.No.837 of 2008 on the file of IV Additional Judicial Magistrate of First Class, Kakinada. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J.

06th October 2017

SSP / KSM

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