THE HON'BLE SRI JUSTICE P.KESHAVA RAO

CRIMINAL PETITION No. 11087 of 2011

ORDER:

Heard learned counsel for the petitioners/A1 and A2 and learned counsel for the second respondent.

2. The present criminal petition came to be filed by the petitioners to quash the proceedings initiated against them in Crime No.800 of 2011 on the file of S.H.O., Krishna Lanka Police Station, Vijayawada, Krishna District, registered for the offences punishable under Section 420 read with Section 34 of IPC.

3. The facts of the case are that the second respondent filed a private complaint on 27.09.2011, before the IV Additional Chief Metropolitan Magistrate, Vijayawada, against the petitioner and three others for an offence punishable under Section 420 read with Section 34 of IPC vide CFR No.8656 of 2011. The said complaint was referred under Section 156(3) of Cr.P.C. to the concerned police by the Magistrate for investigation. On receipt of the said complaint, the SHO, Krishnalanka Police Station, registered a crime in F.I.R.No.800 of 2011 for the offence under Section 420 read with Section 34 of IPC.

4. The case of the second respondent in the complaint is that he owned a vehicle of Ashok Leyland bearing No.AP 16 TX 8862 of 2004 model. It is further stated by the second respondent/informant that the third accused has purchased the said vehicle from the informant for a valid sale consideration of Rs.6,40,000/- and fourth and fifth accused have acted as mediators for the said transaction. That initially the first

accused assured him to give finance to the third accused to the said vehicle to the extent of the total sale consideration. Thereafter, accused Nos.2 to 5 made the second respondent to believe that the sale consideration payable by the first accused would be paid after getting registration of the said vehicle through cheque and accordingly the second accused took bank account number from the informant. Believing the false representations and assurances made by all the accused, the informant signed on all papers for mutation of the said vehicle in favour of the third accused. It is the case of the complainant that all the accused colluded and cheated him without paying the agreed sale consideration. Basing on these allegations, the above crime came to be registered.

5. Learned counsel for the petitioners/A1 and A2, submits that the first petitioner - company is incorporated under Companies Act, having its head office at Chennai; they are doing business in auto finance and the second petitioner is its employee. It is also the case of the first petitioner that the second respondent and the third accused approached the petitioner for a vehicle loan and as such the company has agreed to finance the vehicle and also requested the third accused as well as the second respondent to fulfill certain conditions and also advised to produce all necessary documents along with vehicle, on which they are seeking finance. However, the third accused and the second respondent submitted two certificates with regard to the registration of the vehicle with two different dates i.e., dated 12.07.2011 and 13.07.2011. When the petitioners questioned the second respondent to confirm as to which of the certificates is correct, there was no response on it and thereafter they never turned up.

6. A perusal of the letter dated 08.06.2011, said to have been issued by the first petitioner, also confirms that it agreed to finance for purchase of the vehicle subject to receipt of the documents mentioned therein. In the absence of receipt of the said documents from the third accused and the second respondent, it cannot be said that the basic ingredient of Section 420 is satisfied. However, this Court cannot go into the disputed aspect of whether the documents are furnished or not. Be that as it may, during the course of hearing, it is represented by the learned counsel for the petitioners that the first respondent can proceed with the investigation and file charge sheet, without arresting the petitioners.

7. Having regard to the above submissions made, it is appropriate to direct the first respondent to complete the investigation as early as possible, preferably, within a period of three months from the date of receipt of a copy of the order and file charge sheet before the appropriate Court. However, it is made clear that during the course of investigation if the presence of the petitioners is required, the first respondent may invoke the provisions of Section 41-A of Cr.P.C. as per law.

8. With the above direction, the criminal petition is disposed of.

9. Miscellaneous Petitions, if any pending, shall stand closed.

JUSTICE P. KESHAVA RAO

10.10.2017.

vhb