

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2845 OF 2017

ORDER:

The present petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to quash the proceedings in Calendar Case No.127 of 2016 on the file of IV-Additional Judicial Magistrate of First class, Kakinada.

2. The petitioner herein is arraigned as accused No.2 in the aforesaid Calendar Case. He alleged to have committed the offence punishable under Section 420 read with Section 34 of IPC, along with accused No.1.

3. Heard Sri Gudapati Venkateswara Rao, the learned counsel for the petitioner, and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioner would plead innocence and false implication of the petitioner. It is according to him, that there is no incriminating material either in the complaint or in the statements recorded under Section 161 (3) of the Code made by the witnesses, cited as prosecution witnesses. Except a vague allegation that the petitioner herein introduced the 1st accused, who is the Director of Convention of Baptist Church, Northern Circars Trust, C.B.M. Compound, Kakinada, East Godavari District, used to provide management quota seats in Kona Seema Institute of Medical Sciences

(KIMS) College by collecting the amounts. It is, therefore, his submission that it cannot be said that there was conspiracy or connivance between the 1st accused and the petitioner/accused No.2, and, therefore, sought to quash the proceedings in the aforesaid Calendar Case.

5. The learned counsel for the petitioner has drawn attention to the complaint allegations, statements made by witnesses recorded under Section 161 (3) of the Code and legal notice got issued by Sri Ch. Krishna Prasad, Sathupalli, Khammam District, Telangana State on behalf of the 2nd respondent/complainant to the accused No.1 on 17.10.2015. According to the learned counsel, certain cheques were given and the said cheques were only issued by the accused No.1 and they were even returned due to insufficient funds. He has also drawn the attention to the Memo under which the Cheque was returned.

6. The learned Additional Public Prosecutor for the State of Telangana submits that there is incriminating material in the complaint with regard to the part played by the petitioner and it cannot be said that the petitioner is totally innocent and the very act in introducing the accused No.1 itself is sufficient despite the fact that there is concrete incriminating material as to the complicity of the petitioner in the commission of the offence alleged against him.

7. Perused the charge-sheet, compliant and statements of witnesses.

8. The prosecution case is that the son of the complainant wrote EAMCET having completed his Intermediate and at that juncture accused No.1 came into contact with him and his friends.

9. A perusal of the charge-sheet would show that the complainant learnt through the petitioner/accused No.2, who is a broker of Vizianagaram that in KIMS College, Amalapuram, medical seats were available in management quota and when contacted the petitioner/accused No.2, promised to arrange medical seat to the son of the complainant and he told them that they will have to spend huge amount at least Rs.25 lakhs to get medical seat and by giving the name of accused No.1, in fact accused No.1 collected various amounts to the tune of Rs.25 lakhs. This has been consistently spoken to by the witnesses in their statements. It is no doubt true that the legal notice was got issued by the complainant to the accused No.1 and cheques were issued by accused No.1, but that cannot be a ground at this stage to hold that there are no *prima facie* allegations against the petitioner/accused No.2. Whether the part played by the petitioner is only to the extent of just introducing Accused No.1? or whether there was any intention on his part in introducing Accused No.1, as he is stranger to the complainant?, all are the questions of fact that require consideration basing on appreciation of evidence that would be let in through prosecution witnesses. There is no merit in the petition.

10. The Criminal Petition is accordingly dismissed.

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

A. SHANKAR NARAYANA, J

Dt. 19.04.2017
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