HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.7173 OF 2015

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in C.C. No.714 of 2015 pending on the file of XX Metropolitan Magistrate, Cyberabad at Malkajigiri, against the petitioners for the offences punishable under Sections 420 and 406 of Indian Penal Code, 1860 (for short 'I.P.C.').

One Vippena Ligappa filed a private complaint, on behalf of the second respondent herein, against the petitioners alleging that the second respondent invested 25% of total stake in Saranya Electronics Pvt. Ltd., Cherlapally, Ranga Reddy District, i.e. to a tune of Rs.1.5 crores, in addition to the erstwhile investment, on the promise made by the accused that they will return shares with 24% annual interest, but the petitioners failed to return the amount. Again the petitioners entered into Memorandum of Understanding on 09.04.2011 with the second respondent. Later the Company and its Directors violated the conditions of MOU and declined to keep up their promise and thus the petitioners induced her to invest the amount with dishonest intention, committed breach of trust, and cheated her to a tune of Rs.2 crores. A.2 to A.5 are the Directors and they also signatories of MOU dated 09.04.2011.

The said complaint was referred to the police by exercising power under Section 156(3) of Cr.P.C. and after investigation, the police filed charge sheet against the petitioners for the offence punishable under Sections 420 and 406 of I.P.C. concluding that

A.1 to A.4 have deliberately induced the second respondent by saying that they have proposed an investment opportunity with Electronic Goods and would grow by two times in a short span. On their believable words, the second respondent invested with them by issuing eight cheques to the petitioners for an amount of Rs.1 crore for the above purpose. After the petitioners presented cheques and drawn amount from State Bank of India, Narayanaguda Banch, Hyderabad, through account of the second respondent, as promised in the memorandum of understanding, the petitioners did not repay the amount and failed to comply with the conditions of undertaking. Thereby they fraudulently induced the second respondent to invest huge amount of Rs.1 crore and committed breach of trust, filed charge sheet.

The present criminal petition is filed under Section 482 of Cr.P.C. raising several contentions mainly contended that the allegations in the complaint and charge sheet on its face value accepting on its entirety would not constitute an offence, *prima-facie* that apart, earlier the second respondent filed private complaint C.C. No.1 of 2014. After recording part of evidence, the second respondent filed a petition and withdrawn the proceedings in C.C. No.1 of 2014 and immediately lodged the present complaint. Thus, it is an abuse of process of law and such abuse cannot be encouraged by the courts. On that ground alone, the proceedings in C.C. No.714 of 2015 are liable to be quashed and prayed to quash the proceedings.

During hearing, Sri M.P.V.N.N. Sastry, learned counsel appearing for the petitioners, contended that the petitioners did commit no offence, and at best, failure to honour of Memorandum of Understanding would give rise to civil liability and the second respondent is not entitled to resort to the criminal litigation and it is nothing but an abuse of process of law. It is further contended that when the earlier complaint C.C. No.1 of 2014 was withdrawn and the accused were discharged therein, question of filing second complaint without obtaining permission of the court is barred under Section 300 of Cr.P.C. Finally the allegations made in the charge sheet on its face value would not constitute any offence punishable under Sections 420 and 406 of I.P.C. and prayed to quash the proceedings in C.C.No.714 of 2015.

Sri C.Hari Preeth, learned counsel for the second respondent, would contend that failure to keep up the promise as per memorandum of understanding would directly amount to an offence punishable under Section 406 of I.P.C. and the allegations made in the charge sheet on its face value, accepting in its entirety would constitute, *prima facie*, an offence punishable under Sections 420 and 406 of I.P.C. and prayed for dismissal of the petition.

Considering the rival contentions, perusing the material available on record, the points that arise for consideration are, as follows:

1. Whether the second respondent is entitled to prosecute the petitioners having withdrawn earlier complaint in C.C. No.1 of 2014 based on the same allegations, more particularly, when the accused therein were discharged for the said offence?

2. Whether the allegations made in the charge sheet would constitute an offence on its face value? If so, whether it amounts to converting civil litigation into

criminal litigation? If not, whether the proceedings in C.C. No.714 of 2015 are liable for quashment?

POINT No.1

The first and foremost contention raised by the counsel for the petitioners is that having withdrawn the proceedings in C.C.No.1 of 2014 on the file of Special Judge for Economic Offences at Hyderabad, the second respondent is not entitled to file a complaint based on the same allegations and it amounts to an abuse of process of the court.

During hearing, learned counsel for the petitioners has drawn the attention of this Court to the order dated 19.02.2015 in C.C.No.1 of 2014 passed by the Special Judge for Economic Offences at Hyderabad. The order is extracted hereunder for better appreciation:

> "Complainant and A.5 present. A.1 to A.4 absent. The petitions filed and allowed. Cost paid. Crl.M.P.No.482 of 2015 filed U/Sec.257 of Cr.P.C. for withdrawal of complainant is allowed. The accused are discharged for the offence alleged."

The order extracted hereinabove is clear that the complainant filed an application under Section 257 of Cr.P.C. for withdrawal of the complaint and the same was allowed by the court. But while allowing the petition, the accused were discharged for the offence allegedly committed by them. The present complaint was filed before the Magistrate on 29.10.2014 with the same allegations which the second respondent made C.C. No.1 of 2014 and under the same provisions of law. When the accused were discharged for the alleged offence, whether the second respondent is competent to file complaint before the court is a question to be decided by this court.

Section 300 of Cr.P.C. deals with the person once convicted or acquitted not to be tried for same offence. It created interdict to try a person once convicted or acquitted for the same offence. Sub-section (1) of Section 300 of Cr.P.C. deals with a person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of Section 221, or for which he might have been convicted under sub-section (2) thereof. But Sub-Section (5) of Section 300 of Cr.P.C. is relevant for the purpose of deciding the controversy before this court. Sub-section (5) deals with a bar to try a person discharged under Section 258 of Cr.P.C. and according to sub-section (5), a person shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other court to which the first-mentioned Court is subordinate. There is no direct bar to try the person, who was discharged, if the consent of the court which discharged the accused was obtained, he can be tried again for the same offence on the same facts. But, the order extracted above did not disclose grant of any leave to file a complaint on the same charges against the same accused. Therefore, in the absence of consent or leave by the court by the Judge for trial of Economic Offences by order dated 19.02.2015, the second complaint is not maintainable and the petitioners herein cannot be tried for the same offence.

The allegations made in the earlier complaint before the Special Judge for Economic Offences and in the present complaint are identical and the basis for filing complaint in C.C.No.1 of 2014 and the present complaint before the XX Metropolitan Magistrate, Cyberabad are, investment of one crore on the promise made by the petitioners, repay the same with interest @ 24% per annum and the memorandum of understanding entered into by the parties and failure to comply the conditions contained in memorandum of understanding. In such case, in the absence of obtaining consent from the competent court i.e. Special Judge for Economic Offences, which is superior court than the court before which the present complaint is pending. As the second respondent did not obtain consent or leave of the court i.e. Special Judge for Economic Offences in C.C.No.1 of 2014, in view of bar under sub-section (5) of Section 300 of Cr.P.C., the charge sheet filed against the petitioners for the same offence with which they were tried partly by the Special Judge for Economic Offences is not maintainable, in the absence of any consent.

Therefore, filing of second complaint and reference to the police by the Magistrate exercising power under Section 156 (3) of Cr.P.C. is nothing but an abuse of process of the court and in view of bar under Section 300 (5) Cr.P.C., the complaint is not maintainable. In fact, there was a reference of earlier case on the file of Kusaiguda police station in Cr.No.15 of 2014, which is the subject matter of C.C.No.1 of 2014, but the Magistrate did not apply his mind and took cognizance of the offence against the petitioners for the offence punishable under Sections 420 and 406 of I.P.C. Hence, issue of process to the petitioners taking cognizance of the offence is an illegality and thereby on this ground, the proceedings in C.C. No.714 of 2015 are liable to be quashed.

POINT No.2:

The main grievance of the petitioners is that when the second respondent invested Rs.1 crore on the promise made by the petitioners and after committed breach of promise, it would give rise to a cause of action for filing a civil suit or appropriate proceedings and it would not give rise to any criminal liability.

In view of specific allegation, it is relevant to advert to the allegations made in the charge sheet and other material. After investigation, the police filed charge sheet mainly alleging that the petitioners deliberately induced the second respondent to invest Rs.1 crore in the Company on the false promise made by them, but failed to repay the same as agreed in terms of memorandum of understanding.

Section 406 of I.P.C. deals with punishment for criminal breach of trust. The word 'criminal breach of trust' is defined under Section 405 of I.P.C., which reads thus:

> "**405. Criminal breach of trust:-** Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express, or implied, which he has made touching the discharge of such trust,

or willfully suffers any other person so to do, commits "criminal breach of trust."

To constitute criminal breach of trust, a person must be entrusted with property or with any dominion over property. One of the essential conditions of offence of criminal breach of trust is that the property which is the subject-matter of the offence must have been entrusted to the accused, and trust of some kind is necessary and the property in respect of which criminal breach of trust can be committed must be either the property of some person other than the accused or that the beneficial interest in or the ownership of it must be in some other person and the offender must hold such property on trust for such other person or in some way for his benefit.

In the present case, the amount was admittedly invested in the Company, but there is nothing to show that the property was converted into their own by the petitioners in breach of terms and conditions agreed between the parties or in violation of legal contract, but they failed to repay the amount as agreed. Such failure would give rise to both civil and criminal liabilities.

Section 420 of I.P.C. deals with punishment for cheating and dishonestly inducing delivery of property. Cheating is defined under Section 415 of I.P.C.

"415. Cheating:- Whoever by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"".

The essential ingredients required to constitute the offence of cheating are:

(i) There should be fraudulent or dishonest inducement of a person by deceiving him;

(ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) The person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) In cases covered by (ii) (b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

But here the petitioners allegedly induced the second respondent to invest Rs.1 crore and believing their words, she invested and it is only towards investment and if for any reason investment is not returned as agreed in terms of MOU, the second respondent can proceed in civil court for recovery of the amount. When such remedy is available, approaching the criminal court may sometimes amounts to an abuse of process of the court.

In **MADHAVRAO JIWAJI RAO SCINDIA & ANR.** VS. **SAMBHAJIRAO CHANDROJIRAO ANGRE & ORS.**[1] the Apex Court held thus,

"While observing that though a case of breach of trust may be both a civil wrong and a criminal offence but there would be certain situations where it would predominantly be a civil

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[1] AIR 1988 SC 709

wrong and may or may not amount to a criminal offence. The present case is one of that type where, if at all, the facts may constitute a civil wrong and the ingredients of the criminal offences are wanting. Having regard to the relevant documents, including the trust deed as also the correspondence following the creation of the tenancy, the submissions advanced on behalf of the parties, the natural relationship between the settlor and the trustee as mother and son and the fall out in their relationship and the fact that the wife of the co-trustee was no more interested in the tenancy, it must be held that the criminal case should not be continued."

In **TRISUNS CHEMICAL INDUSTRY v. RAJESH AGARWAL AND ANOTHER**[2], the complainant company had alleged that the directors of another company offered to supply "toasted soya bean extractions" for a price higher than the market price. The Complainant Company had to pay the price in advance as demanded by the accused company. Complainant paid the amount through cheques. However, the accused supplied the commodity, which was of most inferior and sub-standard quality and the complainant suffered a loss of Rs. 17 lakhs. The Complainant alleged that he was induced to pay the price on the representation that the best quality commodity would be supplied. A criminal complaint was filed alleging commission of the offence punishable under Section 420-A. The Magistrate forwarded the complaint for investigation under Section 156(3) Cr. PC. The accused directors moved the High Court for quashing the complaint alleging that the dispute was purely of a civil nature and hence no prosecution should have been permitted. The High Court accepted this plea and

[2] 1999 Crl.L.J. 4325

the complaint was quashed. But this court held in para 8 and 9 of the judgment as follows:

> "………merely because an act has a civil profile is not sufficient to denude it of its criminal outfit.
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> ………………
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> ………………
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> We are unable to appreciate the reasoning that the provision incorporated in the agreement for referring the disputes to arbitration is an effective substitute for a criminal prosecution when the disputed act is an offence. Arbitration is a remedy for affording reliefs to the party affected by breach of the agreement but the arbitrator cannot conduct a trial of any act, which amounted to an offence, albeit the same act may be connected with the discharge of any function under the agreement. Hence, those are not good reasons for the High Court to axe down the complaint at the threshold itself. The investigating agency should have had the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. Pre-emption of such investigation would be justified only in very extreme cases."

In **PRATIBHA RANI VS. SURAJ KUMAR**[3], the question arose that when the civil as well as criminal remedy is available to a party, can a criminal prosecution be completely barred. In this case, the matter related to the Stridhan property. The complainant alleged that her husband, father-in-law and other relatives misappropriated her jewellery and other valuable articles entrusted to them by her parents at the time of marriage. The complainant alleged that these dowry articles were meant for her exclusive use and that the accused misbehaved and maltreated her and ultimately he turned her out without returning the dowry articles. The accused filed a criminal miscellaneous petition under Section 482 for quashing the Criminal proceedings and the High Court quashed the same. The

[3] 1985(2) SCC 370

accused contended that the dispute was of a civil nature and no criminal prosecution would lie. Under that circumstance, this court held in paragraph 21 at page 382 as under: -

> "... There are a large number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrongdoer in cases like arson, accidents, etc. It is an anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and import...."

But, the criminal proceedings can be continued. In **ALPIC FINANCE LTD., v. P.SADASIVAN AND ANOTHER**[4] where the financer financed the amount to purchase equipment on the promise made by the borrower to repay the amount, but committed default for payment of the debt amount due to financer, then filed the complaint for the offence punishable under Sections 420, 406 and 423 of I.P.C. The Magistrate took cognizance of the offence and issued process, but the matter went up to Apex Court, wherein the Apex Court held that an act of civil nature not to decide it of its criminal outfit. The main offence alleged being of cheating, but no allegation that the respondents made any willful misrepresentation and no allegation of fraud or dishonest inducement on part of respondents. It is difficult to discern element of deception in whole transaction, thereby the complaint filed only with an oblique motive

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[4] 2001(1) ACR 726 (SC)

of causing harassment to respondents and quashed the proceedings.

In the same judgment, the Apex Court dealt with the various circumstances, where the court can exercise power under Section 482 of Cr.P.C., mostly relying on **STATE OF HARYANA v. BHAJAN LAL**[5] and **SMT. NAGAWWA VS. VEERANNA SHIVALINGAPPA KONJALGI AND OTHERS**[6] and **RUPAN DEOL BAJAJ (MRS.) AND ANR. VS. KANWAR PAL SINGH GILL & ANR.**[7].

In the present facts of the case, in earlier complaint, which is subject matter of C.C. No.1 of 2014, disposed by the Special Judge for Economic Offences, there were no allegations regarding deception and willful misrepresentation and inducement of the second respondent to invest huge amount. But after withdrawing the said complaint, for the first time, such allegations were made and the investigating agency conveniently and cleverly drafted the charge sheet as if there was a criminality and willful misrepresentation on the part of the petitioners to attract the offence punishable under Sections 420 and 406 of I.P.C. Thus, the allegations made in the private complaint only after withdrawing the earlier complaint. When the case is of civil nature purely for recovery of money, it would not give rise to a cause of action for filing the complaint. In the absence of any allegations regarding inducement or willful misrepresentation to part with huge amount, the court cannot proceed with the offence punishable under Sections 406 and 420 of I.P.C. Here the allegations made in the

[5] 1992 SUPP (1) SCC 335
[6] 1976(3) SCC 736
[7] 1995(6) SCC 194

complaint on discerning the entire material on record, the second respondent conveniently withdrawn the earlier complaint in C.C. No.1 of 2014 on the file of Special Judge for Economic Offences and got the accused discharged and again filed a private complaint with identical allegations, except change of few words, more particularly, inducement and willful misrepresentation etc. so as to constitute an offences punishable under Sections 406 and 420 of I.P.C., on such filing, complaint was referred to the police by the Magistrate exercising power under Section 156(3) of Cr.P.C. it is an abuse of process of court.

Section 482 of Cr.P.C. makes it clear that the provisions of the Code are intended to limit or affect the inherent powers of the High Courts. Obviously the inherent power can be exercised only for either of the three purposes specifically mentioned in the section. Such inherent power cannot naturally be invoked in respect of any matter covered by the specific provisions of the Code. It cannot also be invoked if its exercise would be inconsistent with any of the specific provisions of the Code. It is only if the matter in question is not covered by any specific provision of the Code, the power under Section 482 Cr.P.C. can come into operation, and the court can exercise subject to other limitations. Therefore, the power under Section 482 of Cr.P.C. can be exercised subject to the following conditions:

> “1. The jurisdiction is completely discretionary. The High Court can refuse to use the power.
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> 2. The jurisdiction is not limited to cases that are pending before the High Court. It can consider any case that comes to its notice (in appeal, revision or otherwise).

3. This power can be invoked only in an event when the aggrieved party is being unnecessarily harassed and has no other remedy open to it.

4. The High Court, under section 482, does not conduct a trial or appreciate evidence. The exercise of this power (although it has a wide scope) is limited to cases that compel it to intervene for preventing a palpable abuse of a legal process.

5. The High Court has the power to provide relief to the accused even if s/he has not filed a petition under section 482.

6. This power cannot be exercised if the trial is pending before the apex court and it has directed the session judge to issue a non- bailable warrant for arresting the petitioners.

7. The power under Section 482 is not intended to scuttle justice at the threshold but to secure justice.

8. This power has to be exercised sparingly with circumspection and in the rarest of rare cases, but cannot be held that it should be exercised in the rarest of rare cases – The expression rarest of rare case may be exercised where death penalty is to be imposed under Section 302 of IPC but this expression cannot be extended to a petition under Section 482 CrPC.

9. So long as inherent power of Section 482 CrPC is in statute, the exercise of such power is not impermissible.

10. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice.

11. Where the accused would be harassed unnecessarily if the trial is allowed to linger when prima facie it appears to Court that the trial would likely to be ended in acquittal.

12. In proceedings instituted on complaint, exercise of inherent powers under Section 482 CrPC to quash the

proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same.

13. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

14. All Courts, whether civil or criminal possess, in the absence of any express provisions, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice."

The law is settled on the powers as to when such inherent power under Section 482 Cr.P.C. can be exercised and cannot be exercised in various perspective pronouncements of the Apex Court. The leading case on this aspect is **STATE OF HARAYANA V. BHAJANLAL** referred to supra, wherein the Apex Court laid down the following seven guidelines:

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose

the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

In **STATE OF KARNATAKA VS. L.MUNISWAMY & ORS**.[8] the Apex Court highlighted the powers of the High Court to exercise jurisdiction under Section 482 of Cr.P.C. and held that In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both

[8] AIR 1977 SC 1489

in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction.

The inherent power is to be exercised *ex debito justitiae*, to do real and substantial justice, for administration of which alone Courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal. (Vide **MRS. DHANALAKSHMI VS. R. PRASANNA KUMAR & ORS.**[9], **GANESH NARAYAN HEGDE VS. S. BANGARAPPA & ORS.**[10], and **M/S.**

[9] AIR 1990 SC 494
[10] (1995) 4 SCC 41

ZANDU PHARMACEUTICAL WORKS LTD. & ORS. VS. MD. SHARAFUL HAQUE & ORS.[11].

In view of the law declared by the Apex Court in **L.MUNISWAMY**'s case, when the court comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court, the court cannot sit as mute spectator and the allow the court to go on, since the very existence of courts is to do justice to the parties and cannot encourage unscrupulous proceedings to take advantage of criminal prosecution as a tool of harassment and it is nothing but an arm twisting method to recover amount since the proceedings before the Civil court against the petitioner would consume considerable time.

On overall consideration of entire facts, non payment of amount as agreed under MOU is a breach of promise or breach of trust, it would give rise to both criminal and civil remedies, and in fact no injury was caused to the second respondent on account of such act, and at best, she can recover amount from the petitioners resorting civil litigation, instead she opted criminal litigation for instant relief by pressurizing them to come to her terms and apart from that, earlier, she filed complaint, which was withdrawn while discharging the petitioners herein as accused, but filed the present complaint with identical allegations and such proceedings is nothing but an abuse of process of the court. Therefore, by applying the principle laid down in **L.MUNISWAMY**'s case, the proceedings in C.C. No.714 of 2015 on the file of XX Metropolitan Magistrate, Cyberabad at Malkajigiri are liable to be quashed.

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[11] AIR 2005 SC 9

Accordingly, the criminal petition is allowed, quashing the proceedings against the petitioners in C.C. No.714 of 2015 pending on the file of XX Metropolitan Magistrate, Cyberabad at Malkajigiri. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

03-01-2017
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