

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.12253 of 2011

ORDER:

The present Criminal Petition is filed by the petitioner - accused No.1 to quash the proceedings initiated against him in Crime No.47 of 2011 of Krishnapatnam Police Station, registered for the offences under Sections 420 & 460 IPC.

2. The facts of the case are that the second respondent herein filed a complaint dated 01-10-2011 before the Station House Officer, Krishnapatnam Police Station, Nellore District, stating that he is working as Deputy Manager, H.R in M/s. Zam Engineering & Logistics Private Limited, Muthukur Mandal, Nellore District. The company was having Ashoka Leyland Tippers and recently they have acquired 20 Benz Tippers. The petitioner, who is working as a Manager, is looking after the maintenance of operations of Leyland and Benz Tippers in the company. However, in the verification of the records of the company, made prior to lodging of the complaint, the officers have noticed the missing of Benz Company's Spare Parts worth Rs.4,34,000/- in the company. Whereupon a notice was issued to the petitioner and another regarding shortage of spare parts, but no reply was given. On enquiry conducted by the company, the authorities noticed that the petitioner and another colluded together and misappropriated the spare parts worth Rs.4,34,000/- by committing theft and absconded from the duty. In pursuance of the said complaint lodged by the second respondent - company, the concerned police registered a Crime in FIR No.47 of 2011 for the offences under Sections 420 & 460 IPC against the petitioner

and others. Aggrieved by the same, the petitioner filed the present Criminal Petition.

3. Heard the learned counsel appearing for the petitioner as well as the respondents.

4. The learned counsel appearing for the petitioner would contend that the complaint is bereft of material particulars more particularly, no specific allegations are made with regard to the spare parts, which are missing. The enquiry conducted was without any notice issued to the petitioner and the date and time of the said commission of offence is also not mentioned.

5. A perusal of the contents of the complaint would reveal that the value of the missing parts was arrived at Rs.4,34,000/- and the enquiry conducted also reveal the misappropriation of the amounts by the petitioner and another. At this stage, by exercising jurisdiction under Section 482 of Cr.P.C., this Court cannot look into the disputed questions of fact as to whether the petitioner and another have committed theft of the Benz Company's spare parts and misappropriated the amounts or not. However, after filing of the complaint, this Hon'ble Court was pleased to grant an interim order on 30-11-2011.

6. The learned Public Prosecutor submitted that from the date of registration of the crime, the petitioner herein was absconding.

7. Be that as it may, when the crime is at the investigation stage and specific allegations are made against the petitioner, this Court feels that it is not a fit case to quash the proceedings initiated against him.

8. In the result, the Criminal Petition is dismissed. However, if the Investigating Officer feels that the presence of the petitioner is required during the course of investigation, he can resort to the provisions of Section 41-A of Cr.P.C., as per law.

9. As a consequence, miscellaneous petitions pending consideration, if any, in this Criminal Petition, shall stand closed.

JUSTICE P. KESHA RAO

Date:20.10.2017

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