HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.9490 of 2011

ORDER :

This Criminal Petition is filed under Section 482 Cr.P.C., to quash the proceedings initiated against the petitioner/A.2 in C.C.No.36 of 2011 on the file of the Court of Judicial First Class Magistrate, Tekkali, Srikakulam District, registered for the offences punishable under Sections 420 and 468 of IPC.

2. The brief facts of the prosecution case are that A.1 is working as an Executive in Shriram Chits and Finance Private Limited, Tekkali Branch (for short "Shriram Chits"). He processed the loan application of respondent No.2 – Peesa Pasupathi Rao (LW.1), who is the defacto-complainant, and submitted the same to L.W.9 - Zonal Officer of Shriram Chits, Srikakulam, who inturn, has sanctioned a loan of Rs.2,50,000/- to respondent No.2 and a cheque was entrusted for the said amount to A.1 for handing over the same to respondent No.2 for encashing the same. But A.1, instead of handing over the said cheque to respondent No.2, handed over the same to A.3, who is the Bank Manager of ING Vysya Bank, Srikakulam Branch, for depositing the same in the account of respondent No.2. Later A.1 had withdrawn the amount from the account of respondent No.2 in collusion with A.3 by forging the signature of respondent No.2. A.1 has stated to respondent No.2 that the loan was not sanctioned to

him on his trailer. Then respondent No.2 demanded A.1 to return the records of his trailer, Ration Card and his photos, but A.1 did not return the same to him. On 11.07.2008, respondent No.2 made an enquiry about the sanction of his loan and then A.1 approached respondent No.2 and gave a commitment letter to him stating that he will clear off a part of loan by 30.07.2008 and remaining loan amount by 30.08.2008 and give the loan clearance letter through Shriram Chits, Tekkali Branch. A.1 also handed over one Hero Honda Passion Plus Motor Cycle and Maruthi Omni Car to respondent No.2 as surety. Later, the Maruthi Omni Car was received by A.2 from respondent No.2 on 29.07.2008 with a promise that he would get cleared his loan amount. However, A.1 failed to clear of the loan of respondent No.2 by 30.07.2008 and further absconded discarding his job in Shriram Chits. Thus, A.1 in collusion with A.2 and A.3 prepared fictitious documents with the forged signatures of respondent No.2 and cheated him. On these allegations, the police filed charge sheet against A.1 to A.3. The specific allegations against the petitioner/A.2 are that A.1 in collusion with A.2 and A.3 prepared fictitious documents with forged signatures of respondent No.2 and cheated him. Basing on the said report of respondent No.2, the SHO of P.S. Tekkali, registered a case in Crime No.195/2008 for the offences punishable under Sections 420, 468 of IPC r/w. Section 34 IPC and Sections 3(1)(x) of SCs and STs (POA) Act, 1989. The police after investigation filed charge sheet against A.1 to A.3 for the offences punishable under Sections 420, 468 of IPC r/w. Section 34 IPC only and the same was numbered as C.C.No.36 of 2011. Aggrieved by the same, the petitioner/A.2 has preferred the present criminal petition for quashing of the proceedings against him in C.C.No.36 of 2011.

3. Heard the arguments of the learned counsel for the petitioner/A.2 and the learned Public Prosecutor appearing for respondent No.1–State and perused the material on record.

4. As per the contention of the learned counsel for the petitioner/A.2, there are no ingredients for the offence under Section 420 IPC against A.2 and that he was only a Branch Manager of Shriram City Union Finance Limited and he was not in collusion with A.1 and A.3 in creation of the documents with forged signatures of respondent No.2 and, therefore, sought for quashing of the aforesaid proceedings against petitioner/A.2.

5. The learned Public Prosecutor submitted that investigation is completed in the matter and charge sheet has been filed against A.1 to A.3 for the offences punishable under Sections 420, 468 of IPC r/w. Section 34 IPC.

6. On consideration of the arguments of both the learned counsel, *prima-facie*, there are allegations against A.2 for the offences with which he was charged. Whether the said

allegations are true or not cannot be gone into by this Court in this Criminal Petition. This is purely a question of fact to be decided by the trial Court only after receiving evidence in the case. Therefore, there are no grounds to quash the proceedings against the petitioner/A.2 and the Criminal Petition is liable to be dismissed.

7. At this stage, learned counsel for the petitioner submitted that atleast the presence of the petitioner/A.2 may be dispensed with during trial, as he is working as Manager of Shriram City Union Finance Limited.

8. In view of the said representation, the petitioner/A.2 is directed to file a petition before the trial Court for dispensing with his presence during trial, except when there is requirement of his presence. On such petition being filed, the trial Court may consider the same and pass appropriate orders dispensing with his presence during trial.

9. Subject to the above observations, this Criminal Petition is dismissed. Interim stay granted by this Court on 30.09.2011 shall stand vacated. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

06.10.2017.

NOTE: L.R. Copy be marked.
(B/O)
Msr

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No.9490 of 2011

06.10.2017
Msr