

HON' BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.621 OF 2014

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 by accused No.2 in C.C. No.436 of 2012 on the file of the V Additional Judicial Magistrate of First Class, Nellore, requesting to quash the proceedings in the said Calendar Case.

The present petitioner and accused No.1 now shown in the charge sheet are alleged to have committed the offences punishable under Sections 420 and 406 IPC

Heard Sri N. Harinath, learned counsel for the petitioner and learned Additional Public Prosecutor appearing for the State of Andhra Pradesh.

The learned counsel would submit that *de facto* complainant – respondent No.2 herein having obtained loan from the petitioner's finance company for purchasing a Car has given 36 post dated cheques and having paid seven installments, committed default thereafter, and when the vehicle was seized in terms of the contract between the parties, the petitioner and other accused are falsely implicated. The learned counsel also would submit that when the first information report was registered basing on the complaint, originally, five accused were shown and subsequently accused Nos.1, 3 and 5 shown in the FIR were deleted while filing the charge sheet and, though, the collusion is attributed between

accused No.1 originally shown in the FIR and the present accused No.1, the name of accused No.1 originally shown in FIR was deleted. Hence, it is his submission that the allegations shown in the charge sheet would not sustain and sought to quash the proceedings.

The learned Additional Public Prosecutor would represent that when the car met with an accident, since there was insurance coverage, the petitioner herein received the amount through cheque from the Insurance Company under the guise of repairing the car did not return it to the *de facto* complainant and seized it, and that has been the reason the complaint was registered and charge sheet was laid for the offences mentioned in the above.

Perused the charge sheet and statements recorded under Section 161 Cr.P.C. The allegations shown in the charge sheet, *prima facie*, disclose the commission of a cognizable offence and the contentions raised by the learned counsel for the petitioner can only be examined during trial in the calendar case, and certainly, there are no grounds to quash the proceedings in the aforesaid calendar case.

Therefore, the Criminal Petition is dismissed. As a sequel thereto, Miscellaneous Petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

January 18, 2017.
Mgr