

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2709 OF 2017

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the First Information Report in Crime No.727 of 2016 of Chilkalguda Police Station, Hyderabad City, Telangana State.

2. The petitioners, who are arraigned as accused Nos.1 and 2 in the aforesaid crime, alleged to have committed the offence punishable under Section 420 of Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri V.R. Machavaram, learned counsel for the petitioners and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel for the petitioners would plead innocence and false implication of the petitioners.

5. The relevant facts, that are necessary to appreciate the submissions of the learned counsel for the petitioners, are, respondent No.2 - *de facto* complainant is a contractor and interior designer styled as M/s. Shree Interiors; on 21.08.2013, M/s. S.V.V. Media and Broadcasting Private Limited represented by petitioner No.1 being Managing Director, approached the *de facto* complainant along with her husband, who is petitioner No.2 herein, and gave a contract work

i.e., interior and civil works in the office of M/s. S.V.V. Media and Broadcasting Private Limited, situated at Plot No.231, B-Block, Kavuri Hills Road, Hyderabad; the total value of the contract being Rs.90,28,955/-; she has executed the work and initially a sum of Rs.10,00,000/- was paid as 10% advance and later certain amounts were paid leaving a balance of Rs.41,00,000/- and went on postponing stating that after bank loan was sanctioned, the said amount would be paid and, thereafter, to her surprise, the petitioners closed the office and the building was locked by the owner and, thus, claimed that she was cheated by the petitioners.

6. The learned counsel for the petitioners would contend that the dispute is purely civil in nature and that the company was not made as an accused and, therefore, no criminal liability would arise on the petitioners and the allegations made by the *de facto* complainant are false and even no legal notice was issued and that there has been inordinate delay in lodging the complaint.

7. The learned Additional Public Prosecutor filed Case Diary and would submit that no vicarious liability can be inferred so far as the offences punishable under the provisions of IPC are concerned and, therefore, sought to dismiss the petition.

8. The request herein would relate to the disputed questions of facts. The complaint, even at this stage, would show that the

petitioners have left the office premises and the owner locked the building and not coming into contact would all indicate that there is *prima facie* material against the petitioners. So far as the submission of the learned counsel for the petitioners as to vicarious liability is concerned, at this stage, the same need not be answered and the petitioners are at liberty to ventilate the same before the Investigating Officer as the offences are not under the provisions of any special Statute, like Negotiable Instruments Act, 1881 or any other Special Acts, but the offence levelled is under the provisions of IPC.

9. Therefore, the Criminal Petition is dismissed. However, the Investigating Officer is directed to adhere to the procedure inlaid by the provisions of Section 41A of the Code and the guidelines laid down by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar¹**.

As a sequel thereto, miscellaneous petitions, if any, pending in the petition stand closed.

April 11, 2017.
Mgr

A. SHANKAR NARAYANA, J

1. (2014) 8 SCC 273