

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CRIMINAL PETITION No. 8095 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. by the petitioner to quash the proceedings in Crime No.124 of 2011 of NTPC Police Station, Karimnagar District, registered for the offences punishable under Sections 3(i)(ii) and 3(i)(x) of the SC/ST (POA) Act, and Sections 420 and 290 IPC.

2. Brief facts of the case are that the 2nd respondent lodged a private complaint against the petitioner herein in respect of a chit transaction. The allegations in the complaint are that the petitioner is the Branch Manager of Shriram Chits Private Limited, Godavarikhani, Karimnagar District. On 07.08.2010, the 2nd respondent joined as a subscriber for Rs.2,00,000/- Chit in Shriram Chits, with a monthly subscription of Rs.4,000/- for 50 months. The 2nd respondent participated in the auction and became successful bidder for loan amount of Rs.1,20,000/-. To avail the said loan of Rs.1,20,000/-, the 2nd respondent offered surety. On 11.05.2011, the 2nd respondent received Rs.50,000/- by way of Cheque from the petitioner, and the petitioner informed the 2nd respondent that the remaining Rs.70,000/- would be kept in the company as deposit in the name of the 2nd respondent and that if the 2nd respondent wants to take the deposit, he can do so after three months. On 12.07.2011, the 2nd respondent, along with his wife, went to the petitioner and requested to give him the Bond paper in respect of the amount of Rs.70,000/- that was deposited in his name, and also requested for a personal loan of Rs.50,000/-. The petitioner refused to sanction the loan and scolded him

in filthy language and humiliated him. Therefore, the 2nd respondent filed a private complaint before the Judicial Magistrate of First Class, Godavarikhani, under Section 200 Cr.P.C., and the learned Magistrate referred the complaint to the police under Section 156(3) Cr.P.C., for investigation and report. The said complaint was registered as Crime No.124 of 2011 of NTPC Police Station, Karimnagar District. Seeking to quash the same, the present petition is filed by the petitioner.

3. Heard the learned counsel for the petitioner, and the learned Public Prosecutor.

4. Learned counsel for the petitioner submits that the learned Magistrate, without recording the sworn statement of defacto complainant, has referred the complaint to the police for investigation and, therefore, it is in violation of the provisions of Section 156(3) of Cr.P.C. The learned counsel further submits that the petitioner herein is one E.Raju who is the present Branch Manager of Shriram Chits, and the accused person referred to by the 2nd respondent in his complaint is one Srinivas, who was the Branch Manager at the relevant point of time and, therefore, the crime registered against the petitioner herein is liable to be quashed.

5. Learned Public Prosecutor submits that the procedure of recording sworn statement was not there in the year 2011 i.e., when the complaint was lodged by the 2nd respondent, and the said procedure has come into vogue subsequently. It is further submitted that originally the complaint was lodged against one Srinivas, the then Branch Manager, and not against the petitioner herein.

6. The petitioner herein is one E. Raju who filed this petition to quash the proceedings against him in Crime No.124 of 2011 of NTPC Police Station, whereas the allegations made by the complainant refer to the previous Branch Manager by name Srinivas.

7. The offences alleged against the petitioner are punishable under Sections 3(1)(ii) and 3(1)(x) of the SC/ST (POA) Act, which are alleged against one Srinivas, the then Branch Manager. The present Branch Manager is E. Raju, who is the petitioner herein. The prosecution can be made only against the person who was alleged to have committed the offences and not by his designation as Branch Manager. Moreover, the petitioner was not shown as accused by person in Crime No.124 of 2011.

8. Therefore, the petitioner has no locus standi to maintain this petition. Hence, the petition is liable to be dismissed as not maintainable.

9. In the result, the petition is dismissed as not maintainable. Miscellaneous petitions, if any pending, shall also stand dismissed.

GUDI SEVA SHYAM PRASAD, J

06th October, 2017

KSM

THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD



CRIMINAL PETITION No. 8095 of 2011

06th October, 2017

KSM