

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1815 OF 2017

ORDER:

Requesting to exercise inherent power under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), the petitioner filed the present Criminal Petition to quash the proceedings in Calendar Case No.68 of 2017 on the file of X Additional Chief Metropolitan Magistrate, Secunderabad.

2. The petitioner is arraigned as sole accused in the aforesaid Calendar Case. He alleged to have committed the offences punishable under Sections 420, 468 and 471 of the Indian Penal Code, 1860.

3. Heard Sri Pottigari Sridhar Reddy, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

4. Substantially the submission of learned counsel for the petitioner has been that the petitioner, who is a practicing advocate, has been falsely implicated in the case, and it is not the only case in which the petitioner is implicated, but even in yet another case he was implicated actuated by ill will or false motive through the *de facto* complainant - respondent No.2.

5. To appreciate his arguments, a few facts are relevant.

i) Respondent No.2, who is working as Additional Registrar of Railway Claims Tribunal, Secunderabad, has filed the complaint alleging that in a Railway Accidents Claim Petition, the wife, two children and mother of deceased - M. Prasada Rao, sought a compensation of Rs.4,00,000/- and the said claim petition was allowed on 11.04.2011 granting a compensation of Rs.4,00,000/- with interest. Aggrieved over the same, the South Central Railway has preferred an appeal in C.M.A. No.1255 of 2011 before this Court. The applicants filed execution petition No.20 of 2012 on 06.03.2012. While granting stay, this Court in the said CMA, passed order on 16.09.2011 in CMAMP No.2145 of 2011, imposed a condition of depositing 50% of the compensation with interest, also granting permission to the applicants to withdraw the amount without furnishing any security. The applicants filed cheque petitions along with affidavits for payment of 50% compensation with interest on 18.09.2012. The petitioner herein being the counsel for the applicants, has certified that the applicants have sworn and signed before him on 18.09.2012 and applicant Nos.1, 2 and 3 received cheques on 15.04.2013, but so far as applicant No.4 is concerned, the counsel filed petition stating that she did expire on 13.09.2012.

ii) The *de facto* complainant having verified the file found that the deceased applicant No.4 - Smt. Eshwaramma, died on 13.09.2012, but the cheque petition along with sworn affidavit was filed on

18.09.2012, certified by the counsel for applicant No.4, who is no other than the petitioner herein. The petitioner herein as the applicant No.4's counsel has attested the thumb impression of applicant No.4. Having felt that the petitioner cheated the Railway Administration and also committed fraud on the Tribunal, the *de facto* complainant lodged the complaint. Earlier also, a case in Crime No.118 of 2010 of Tukaramgate Police station was filed against the petitioner herein for similar offence, and after due investigation, charge sheet was laid and the learned Magistrate has taken cognizance of the offences against the petitioner.

6. The learned counsel would submit that the thumb impression of the deceased applicant No.4 was obtained prior to her death, but there was a delay in filing the application and with ill-motive the present complaint is foisted against the petitioner as he has protested certain administrative delays in Railway Tribunal and, therefore, the learned counsel would seek to quash the proceedings.

7. Though, the learned counsel for the petitioner tried to explain away by putting forth defence theory, but when disputed questions of fact in a serious case of this nature, where the offences alleged are punishable under Sections 420, 468 and 471 IPC, while dealing with an application under Section 482 of the Code, this Court cannot embark upon a roving inquiry and decide the controversy which has to be adjudicated upon on examining the witnesses by

taking up a full-fledged trial. Therefore, there is absolutely no merit in the present petition.

8. The present Criminal Petition is, accordingly, dismissed, as no abuse of process of Court can be viewed as sought to be viewed by the learned counsel for the petitioner.

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

April 13, 2017.
Mgr

A. SHANKAR NARAYANA, J

