

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* * * *

CRIMINAL PETITION Nos.6744 OF 2011 AND 6940 OF 2011

Between:

Tripuranene Krishna Prasad and another

....Petitioners

And

The State of A.P., rep. by the
Public Prosecutor, High Court of A.P.,
Hyderabad and another

....Respondents

JUDGMENT PRONOUNCED ON: 27.10.2017

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : No

T.AMARNATH GOUD, J

*** THE HON'BLE SRI T.AMARNATH GOUD**

+ CRIMINAL PETITION Nos.6744 OF 2011 AND 6940 OF 2011

% DATED 27TH OCTOBER, 2017

Tripuranene Krishna Prasad and another

....Petitioners

Vs.

**\$ The State of A.P., rep. by the
Public Prosecutor, High Court of A.P.,
Hyderabad and another**

....Respondents

<Gist:

>Head Note:

! Counsel for the petitioners : Srui P.Vikram

^Counsel for the Respondent No.1 : Public Prosecutor

Counsel for the Respondent No.2 : Smt.A.Bharati Vijaya Sri

? CASES REFERRED:

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**CRIMINAL PETITION Nos.6744 OF 2011 AND 6940 OF 2011****COMMON ORDER:**

These two Criminal Petitions are filed under Section 482 of Cr.P.C., to quash Crime No.78 of 2011 on the file of P.S.Chandragiri, Tirupati Urban, registered under Section 420 IPC., read with Section 156(3) Cr.P.C. As both these Criminal Petitions arise out of same crime, they are being disposed of by this common order.

2. The brief facts of the case are that the second respondent is the de facto complainant, accused No.1 is the petitioner in Crl.P.No.6744 of 2011 and accused No.2 is the petitioner in Crl.P.No.6940 of 2011. The de facto complainant has filed a complaint on the file of the III Additional Judicial Magistrate of First Class, Tirupati against the accused for the offence punishable under Sections 420 IPC., read with Section 156(3) Cr.P.C. The same has been referred to Chandragiri Police Sdtation and accordingly a case has been registered by the Police Chandragiri, Tirupati Urban, in Crime No.78 of 2011 on 23-07-2011.

3. The complainant is the sole proprietor of Best Service Station, near Pudipatla, Tirupati Rural Mandal, Chittoor District and doing business in diesel and petrol bunk. Accused No.1 is the Managing Director and accused No.2 is the Vice Chairman of M/s. Spartek Ceramics Limited and they used to fill fuel for their

company vehicles and also for their factory furnace purpose from the complainant's petrol bunk.

4. According to the complainant, the accused are known reputed businessmen and industrialists in Tirupati Town and having acquaintance with the complainant. When the complainant started petrol bunk business, the accused approached him and requested to fill fuel to their factory vehicles and also for factory furnace purpose on credit basis to run their business. Payments were made on week to week basis or once in 15 days through cheques. This went on upto 2002 and at times according to the complainant, payment was made in cash and cheques were taken back.

5. The complainant stated in his complaint that during the financial year 2003-04, the accused had to pay Rs.20 lakhs to the complainant for the above transaction and the accused issued 16 cheques periodically to the complainant in the name of the fuel company and the said cheques were dishonoured and returned unpaid. The complainant therefore stopped supplying of fuel to the accused. When it was informed to the accused by the complainant, they made to believe that they will pay the amount by way of cash and take back all the dishonoured cheques.

6. In pursuance thereof, the complainant has not proceeded against the accused under Negotiable Instruments Act, as the same would damage the reputation of the accused. The accused has not cleared the dues, which fell due during the financial year 2003-04, the complainant has approached the Court and

filed a complaint with a prayer to punish the accused under Section 420 IPC.

7. As seen from the copy of the complaint, the complainant has filed the complaint in his individual capacity, but whereas, M/s. Best Service Station, which has supplied fuel and obtained cheques, is not the complainant before the Court below. In the F.I.R also, the complainant is Mr.V.Ajay Prathap, but not M/s. Best Service Station. Likewise, the complainant has shown accused Nos.1 and 2 both in their individual capacity, but M/s. Spartek Ceramics Limited is not shown as accused in the complaint. Even in the F.I.R., the accused were shown in their individual capacity and M/s. Spartek Ceramics Limited was not shown as accused.

8. The complainant has not mentioned in his complaint about specific transactions said to have been taken place between him and the accused. No details have been provided in the complaint about supply of fuel and payments made or to be made by the accused. There is no evidence placed on record to show that the complainant made any demands to the accused to pay the amount. The copies of cheques pertaining to the year 2003-04 which were issued by Spartek Ceramics Limited in favour of Best Service Station, do not indicate for what purpose, the cheques have been issued. The complainant failed to establish that the debt was legally enforceable. Even according to the complaint, the complainant has categorically stated that M/s. Spartek Ceramics Limited is a reputed company and it was

their usual practice that even after issuing cheques, they used to repay the amounts by way of cash and take back the cheques.

9. It appears that it is an abuse of process of Court and no action can be initiated upon such vague allegations. More so, the complainant is a Petrol Bunk and its accounts are presumed to be audited regularly. The complainant has failed to explain the inordinate delay in filing the above complaint, when the transactions according to the complainant pertains to the year 2003-04, the complaint is filed in 2010 and F.I.R., was issued on 23-07-2011. The complainant failed to mention in his complaint about the efforts made by him for recovery of the amounts due from the accused.

10. In the above circumstances, the ingredients of Section 420 I.P.C., do not attract and the contents of the complaint are vague. More so, the contents of the complaint disclose that they are civil in nature and basing on the vague allegations, the accused cannot be punished.

11. For the reasons stated above, the F.I.R., in Crime No.78 of 2011 of P.S. Chandragiri, Tirupati Urban, is quashed and the Criminal Petitions are allowed. However, it is needless to observe that the complainant is at liberty to pursue the remedies available to him under law. As a sequel, the Criminal Miscellaneous Petitions, pending if any, shall stand closed.

T.AMARNATH GOUD, J

Date:27-10-2017

Note:-

L.R.Copy to be marked.

B/o Shr