

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.11631 of 2016

ORDER :

The petitioner Y.V.S.Chowdary, Managing Director of Bommarillu Cine Productions, is the accused in C.C.No.142 of 2016 pending on the file of the I Addl.Judl. Magistrate of First Class, Proddutur, for the offences punishable u/ secs. 420 and 506IPC on the report of the 2nd respondent Smt. Vankadara Surekha of Proddutur, dt.28.08.2015 registered as Cr.No.269 of 2015 from which the police after investigation filed final report that was taken cognizance for the offences supra against the accused by the learned Magistrate. On perusal of the First Information Report and the police final report from investigation with reference to the statement of the L.W.1-defacto-complainant, L.W.2 Sudheer-husband of L.W.1, L.W.3Battu KeziaRani, L.w.4 Madurlapalli Naga Srinivasulu and LW.5-K.Venkat Rao, Branch Manager, Union Bank of India, speak that the accused, resident of Banjara Hills, is known to L.W.2 V.Sridhar, husband of the defacto-complainant, and from his visits to their house the accused informed them that he is producing movies under the Banner of Bommarillu Cine Productions and if they invest he can produce movies and can give share in the profits besides payment of amount with interest at 24%p.a. Out of that acquaintance, the accused took loan of 3lakhs from them on 15.02.2010 vide cheque No.000064 from the account of the defacto-complainant of Union Bank, Proddutur and cause executed pronote in favour of the defacto-complainant to which the L.Ws. 3

and 4 supra are the attsetors and nearly one and half years later on 13.08.2011 the accused again came to Proddutur and obtained further loan of 4lakhs from the account of L.W.1 by cheque bearing No.000067 drawn on said Union Bank, Proddutur for which the accused executed pronote attested by the LWs.3 and 4 supra to repay with interest at 24%p.a. and sometime later, when defacto complainant and her husband demanded the accused to remit interest amount, the accused gave Rs.20,000/- and Rs.30,000/- and endorsed on the reverse side of the respective pronotes on 23.09.2012. At that time the accused informed that he was going to make movie 'Rey' shortly and after completion of that movie, he will remit the entire amount due to the defacto-complainant and later even said movie 'Rey' was completed and released in March, 2015 and even the defacto-complainant and her husband demanded the accused, he started taking time without payment on one or other pretext and later refused to repay and also threatened with dire consequences. The accused received the amounts with deceptive words and failed to pay back and after demands threatened with dire consequences and abused indecently thereby liable for the offences.

Heard the learned counsel for the petitioner and the learned Public Prosecutor for the 1st respondent. Notice sent to the defacto-complainant, and also to his advocate to the address given in the FIR and police final report returned of no such addressee is taken as sufficient service.

Importantly, from the very report of the defacto-complainant, the so called criminal intimidation and threats where and when done and at what time taken place are silent is suffice to say that the so called criminal intimidation is not made out not only from that but also from the very ingredients of Section 503 to attract 506 of IPC of not only mere threats to cause injury to the person or reputation or property of the so called victim or any other person in whom he is interested but also it must be shown with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is not legal entitled to do, as the means of avoiding the execution of such threat are lacking herein.

Even coming to the offence u/ sec.420IPC what of the report including the statement show is the two are money transactions covered by pronotes of the amounts received by the cheques and there are part payments with endorsements. There is no dispute in relation to those facts which are even made a mention in the very report and what further added is subsequently having promised to pay after release of picture 'Rey' and even that picture was released, the accused failed to pay by postponing in spite of demands however, ultimately one fine day bluntly refused to pay by giving out threats with dire consequence or to do whatever the defacto-complainant and her husband can do. Even from the very face value of the allegations, there is no offence of cheating to attract Section 415IPC much less for the offence u/ sec. 420IPC, for

any dishonest intention from the inception as there are subsequent part payments even and later even there were promises to pay though could not pay after release of the picture from what the petitioner/accused contends even from the quash petition averments is it is purely a simple money transaction of civil nature and went losses in the picture 'Rey' and could not discharge. In fact, the petitioner filed W.P.No.31621 of 2015 pending a crime there was a stay of not to arrest and even counter affidavit in the writ petition filed by the Station House Officer, Proddutur town Police Station, particularly from the paragraphs-4 to 9 disclose the lending under two cheques and execution of pronotes and part payments made and promised to pay later after release of the cinema 'Rey' that was released and not paid and subsequently accused when asked threatened and challenged that he is not going to pay, they can do what they can and even therefrom there is nothing that attracts so also from the so called statements of the witnesses supra, the offence u/ sec.420IPC.

In the result, the Criminal Petition is allowed by quashing the proceedings in C.C.No.142 of 2016 on the file of the I Addl.Judicial Magistrate of First Class, Proddutur. The petitioner is acquitted and his bail bonds shall stand cancelled. Consequently, pending miscellaneous petitions, if any, shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:13.09.2017
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