

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11007 OF 2017

ORDER:

This Criminal Petition, under Section 438 of Cr.P.C., is filed by the petitioners/accused Nos.1 and 2, seeking anticipatory bail in the event of their arrest in connection with F.I.R. No.1819 of 2017, on the file of Rajendranagar Police Station, Cyberabad district, registered for the offences under Sections 420 and 406 of I.P.C.

Heard the learned counsel for the petitioners/A.1 and A.2, learned Additional Public Prosecutor appearing for the respondent-State, and perused the record.

Learned counsel for the petitioners would submit that the subject matter of the crime can be addressed under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') as there are allegations of lending money, passing a receipt and then giving a cheque to discharge the legally enforceable debt; no offences can be made out for the offences under Sections 420 and 406 I.P.C. and ultimately prayed to allow the Petition.

Learned Additional Public Prosecutor appearing for the respondent-State would contend that petitioner/A.1 is involved in other crimes, the matter requires investigation, and it is not a fit case to allow the Petition under Section 438 Cr.P.C.

The material on record reveals that due to acquaintance, the petitioners approached the *de-facto* complainant with a proposal that they would provide a Saudi visa to him to establish a garage work shop of four wheelers at Riyadh, Kingdom of Saudi Arabia, and further stated that A.2

has got vast business and acquaintances with the Saudi nationals, he could easily do so, collected an amount of Rs.5,00,000/- in cash and issued a receipt to the *de-facto* complainant in respect of the said amount. Thereafter, the petitioners neither provided Saudi visa nor returned the said amount to the *de-facto* complainant. Subsequently, on the demands made by the *de-facto* complainant, A.1 had taken the receipt from the *de-facto* complainant and issued a cheque bearing No.069627, dated 10.05.2017 for Rs.5,00,000/- and when the same was presented by the *de-facto* complainant through his bank, the same was returned on the ground that the account was blocked.

First of all it is required to be seen the propriety of petitioners/A.1 and A.2 to get a Saudi visa to the *de-facto* complainant. As per the record the petitioners do not have any license to indulge in such activities. The allegations against the petitioners are grave. The *de-facto* complainant has remedies under the Indian Penal Code and he can also agitate under Section 138 of the Act. It can be culled-out from the record that there is element of cheating etc., and, hence, the matter requires investigation. Viewed from any angle, it is not a fit case to enlarge the petitioners/A.1 and A.2 on bail under Section 438 Cr.P.C.

Hence, the Criminal Petition is dismissed.

In consequence, miscellaneous petitions, if any, pending in this Criminal Petition shall also stand dismissed.

Dr. SHAMEEM AKTHER, J

Date: 27.11.2017.
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