

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.10673 of 2017

ORDER:

The present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') is filed to quash the First Information Report in Crime No.758 of 2017 of Saroornagar Police Station, Rachakonda.

The petitioner, along with Accused Nos.2 to 4, alleged to have committed the offences punishable under Sections 468, 471 and 420 read with 34 IPC. He is arraigned as accused No.1 in the remand report.

Heard Sri U.V.Suresh Kumar, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana.

The main submission of the learned counsel for the petitioner is that the name of the petitioner is not occurring in the First Information Report and, therefore, it cannot be said that respondent No.1 is able to show any *prima facie* material against the petitioner to prosecute or proceed with investigation against the petitioner for the aforesaid offences.

The learned Assistant Public Prosecutor, on the other hand, would come out with the submission that the confessional statement of Accused No.2 would show the involvement of the petitioner and also accused Nos.2 and 4. According to him, the petitioner is the main culprit, at whose behest, there has been forgery and fabrication of an agreement of sale forging the signature of the *de facto* complainant, which was learnt

by the *de facto* complainant when notices were served on him in a civil suit in I.A.No.760 of 2017 in O.S.No.1093 of 2017 filed by accused No.2.

Yet another submission of the learned counsel for the petitioner is that it is a civil dispute and, therefore, investigation cannot be proceeded with against the petitioner herein.

There appears to be no substance in the said submission for the reason, though, the name of the petitioner is not mentioned in the First Information Report, it is clear in the complaint averments that there was an impostor behind the conspiracy and since his name was not known to the *de facto* complainant, the name of the petitioner was not mentioned in the First Information Report. The remand case diary would clearly make out a case for the offences alleged against the petitioner basing on the confessional statement and also the statements recorded under Section 161 of the Code of certain witnesses. In such an event, it cannot be said that there is no material worth the name to proceed with investigation against the petitioner and in case the investigation is done, it would amount to abuse of process of law.

Hence, the Criminal Petition is dismissed, at the admission stage itself.

Miscellaneous applications, if any, pending in the Criminal Petition stand closed.

JUSTICE A.SHANKAR NARAYANA

06.11.2017

v v