

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.35877 OF 2017

ORDER:

This writ petition under Article 226 of Constitution of India is filed to quash the proceedings in C.C.No.1087 of 2016 on the file of 2nd Additional Chief Metropolitan Magistrate, Visakhapatnam on the ground that the petitioner is an employee in Vizag Steel Plant and did commit no offence and the prime accused by name K.J.Paul/accused No.1 is not arrayed as accused, but this petitioner, who participated in the settlement was arrayed as accused, because of repayment of Rs.1,50,000/- received by K.J.Paul, accused No.1, he was deleted from the array of accused by the investigating agency and filed charge sheet against the petitioner.

Sri Sravan Kumar Naidana, learned counsel for the petitioner, contended that proceeding against the petitioner alone leaving the prime accused is serious irregularity and the petitioner did commit no offence much less offence punishable under Section 420 of I.P.C. and requested to quash the proceedings against the petitioner.

In view of the contention of the learned counsel for the petitioner, it is relevant to refer the allegations made in the charge sheet are as follows:

“L.W.1 is resident of D.No.9-218, Ghat Road, Simhachalam, Visakhapatnam stated that he studied polytechnic diploma course in Sujana College of Polytechnic and ensuing 3rd year B.Tech (Civil) in Sai Ganapathi Engg College near Sontyma at the time of report. During polytechnic study of LW1 one Kotyada Jarnina Paul became familiar to him and introduced the marginally noted accused and brought him to their house. The accused asked for ten lakhs for providing job to LW1 and they bargain for 8 lakhs and settled the deed. Later the accused asked

LW's 1 & 2 to pay him Rs.4 lakhs now and remaining amount later after getting job, the accused convinced them and collected an amount of Rs.4 lakhs in the presence of one of LW 3, but even after taking the money it was already one year completed but not made any efforts, on that LW's 1 and 2 asked the accused by attending his house, and on that the accused demanded them to pay another 1.5 lakhs and he will arrange appointment within ten days. LW2 gave Rs.1.5 lakhs and even after taking the money the accused not provided any job to LW 1 and not returned cash."

The allegations made in the charge sheet would disclose commission of offence under Section 420 of I.P.C. since the petitioner being an employee in Steel Plant is not a competent person to provide employment. Collection of amount for providing employment is nothing but fraud. Therefore, material on record would constitute offence punishable under Section 420 of I.P.C. *prima facie*, hence it is not a fit case to exercise jurisdiction under Article 226 of Constitution of India to quash the proceedings in C.C.No.1087 of 2016 on the file of 2nd Additional Chief Metropolitan Magistrate, Visakhapatnam. Consequently, the petition is liable to be dismissed.

In the result, the writ petition is dismissed. No costs. However, it is left open to the petitioner to raise all pleas during the trial before the Court below and to file an application under Section 205 of Cr.P.C.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

10.11.2017
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