

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3005 of 2017

ORDER:

The present Criminal Revision Case is filed by accused No.3 in C.C.No.164 of 2013 on the file of the IX Additional Chief Metropolitan Magistrate at Hyderabad, aggrieved over the order dated 23.10.2017 passed in CrI.M.P.No.1311 of 2017 in the said Calender Case, whereby and whereunder, the Metropolitan Magistrate refused the request of the revision petitioner to discharge him for the offence under Section 420 read with Section 34 IPC and dismissed the application filed under Section 239 of the Code of Criminal Procedure (for short, 'the Code').

Heard Sri Kondaparthi Srinivasa, learned counsel for the revision petitioner. His submission is that no cogent reasons have been assigned by the learned Metropolitan Magistrate in the order under challenge. According to the learned counsel, after referring to the averments in the discharge petition and the averments in the counter, the learned Metropolitan Magistrate dedicated a paragraph in the order for referring to the fact-situation and then the application was dismissed without assigning cogent reasons and, therefore, seeks to set aside the order under challenge. It is also his submission that the entire case revolves around accused No.1, but not against the revision petitioner - accused No.3, as accused No.1 received the amount of Rs.1,50,000/- on two different occasions and he issued the cheque in favour of the *de facto* complainant and, therefore, no case is made out against the revision petitioner.

Perused the complaint averments as well as the statement of the *de facto* complainant recorded under Section 161 of the Code. In fact, the learned counsel for the revision petitioner has also read the complaint averments, from which it is very clear that there is *prima facie* material against the revision petitioner. From the inception, there has been participation of the revision petitioner in the so-called offence of cheating. There is no need to advert to each and every allegation. Had it been a case where the offence under Section 138 of the Negotiable Instruments Act is alleged, there would have been some chance for the revision petitioner, as he was not the person who issued the cheque in favour of the *de facto* complainant. But, the promise made at the inception stage to procure a job in Kudremukh Iron Ore Company Limited at Bangalore was by accused Nos.1 and 3. Even the statement recorded under Section 161 of the Code also shows the same thing. In such an event, at this stage, it is unnecessary to examine each and every statement and to analyse them, which exercise has to be done in a full-fledged trial. Therefore, there is no merit in the present revision and the order under challenge does not suffer from any legal infirmity warranting interference.

The present Criminal Revision Case is, accordingly, dismissed.

As a sequel thereto, miscellaneous petitions, if any pending in the present revision, stand closed.

JUSTICE SHANKAR NARAYANA

27.11.2017

v v