

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.647 OF 2013

ORDER:

1. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the Petitioners/A-1, A-2 and A-3 seeking to quash the proceedings in Crime No.395 of 2012, on the file of the Station House Officer, Rayachoty Police Station, Kadapa District, registered for the offence punishable under Section 384 R/w.34 of I.P.C.

2. Heard learned counsel for the petitioners and learned Public Prosecutor appearing for the 2nd respondent – State. There is no representation on behalf of the learned counsel for the 1st respondent – *de-facto* complainant.

3. The complaint is filed stating that the complainant availed finance from A-1, who is the Branch Manager of Mahindra and Mahindra Financial Services Limited, Proddatur, to purchase Chevrolet Tavera and, after availing the amount, he failed to pay two installments due to his arrest in connection with the Criminal case and immediately after his release from the custody, the petitioners herein, who is the Branch Manager and employees of the Mahindra and Mahindra Financial Services Limited, came to his house, asked the complainant to pay the installments amount immediately and when the complainant replied that he would pay the entire dues within 7 days, the petitioners herein without heeding to his words, forcibly took away the vehicle and when the complainant approached the accused with the requisite amount, the accused did not reply, hence, the complaint.

4. Learned counsel for the petitioners draws the attention of this Court to the terms of the loan agreement; wherein, at Paragraph No.12.1 Sub-Para (ii), it is mentioned that if the borrower/complainant defaults in paying the installments, the lender/accused has right to enter upon the premises where the product is located and take immediate possession of and remove the same without liability to the lenders or their agents of such entry or for damage to property or

otherwise and the loan agreement stands foreclosed on the seizure of the property.

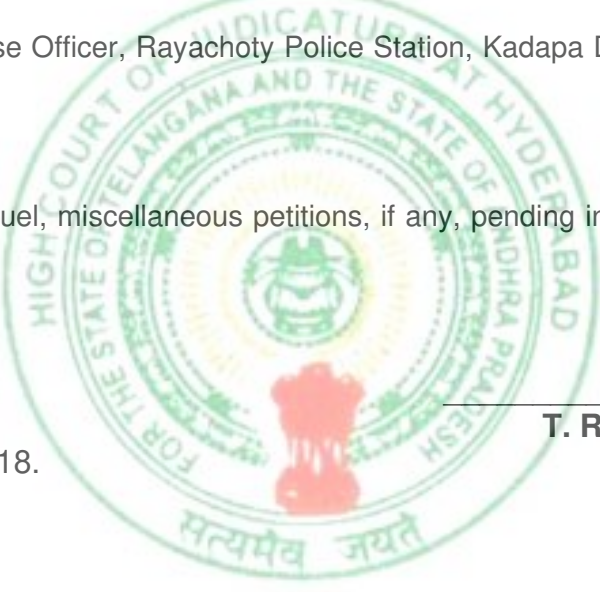
5. Hence, a perusal of the loan agreement reveals that the petitioners acted in terms of the loan agreement entered into between the petitioners and the complainant and hence the acts of the petitioners cannot be termed as the acts falling within the purview of Section 384 of I.P.C.

6. Hence, in view of the above, this Court opines that there is no necessity for continuation of any further proceedings against the petitioners.

7. Accordingly, the Criminal Petition is allowed and all further proceedings against the Petitioners/A-1, A-2 and A-4 in Crime No.395 of 2012 on the file of the Station House Officer, Rayachoty Police Station, Kadapa District, are hereby quashed.

8. As a sequel, miscellaneous petitions, if any, pending in this Petition shall stand closed.

Date: 10.12.2018.
Dsh

T. RAJANI, J

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