

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.10896 of 2011

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings against the petitioner in Crime No.207 of 2011 on the file of 4th Town Police Station, Vijayawada, Krishna District, registered for the offences punishable under Sections 406 and 420 of IPC.

2. Heard learned counsel for petitioner and learned public prosecutor appearing for respondent – State.

3. The allegations are that the petitioner, who is the highest bidder, gave personal notarized affidavit to the Government and promised to abide by the Rules. Last date for payment of 1/4th of knocked down amount was on 16.06.2011 by 05.00 P.M., but he did not pay the amount. The said act of the petitioner is termed to be a breach of trust, attracting Section 406 of IPC.

4. Counsel for the petitioner relies on the order of this Court in CrI.P.No.5714 of 2011, dated 20.09.2011, by virtue of which, this Court, in similar facts and circumstances, quashed the proceedings against the petitioner therein. In the said order, this Court observed as follows:

“The petitioner herein is said to be a contractor, who has participated in the bid of Madduru Sand Reach, when the auction was held on 14.06.2011 for a sum of Rs.9,00,00,000/- (Rupees nine crores only). He has

deposited 1/4 th of the bid amount. But, somehow, he did not pay the balance amount and, therefore, the Assistant Director of Mines and Geology, Vijayawada has lodged a complaint, which was registered as a case in F.I.R. No.208 of 2011 for the offences under Sections 406 and 420 of the Indian Penal Code, 1860 (for short "IPC").

Evidently, the terms of the auction are covered by the conditions of auction and in case of default as per the conditions under clause-9, the Department has got right to forfeit the amount. Either under G.O.Ms.No.84 dated 10.04.2007 or under the conditions of auction, there is no criminal liability attached to the failure of the petitioner to deposit the balance amount. If once default is committed, naturally the amount, which was already deposited, can be forfeited to the State. Therefore, in view of the above circumstances, it is a case of pure contractual obligations and not a case involving any criminal liability, more so any offence either under Section 420 or 406 of IPC. Therefore, in view of the above circumstances, the proceedings are quashed since there is nothing on record to show that by any term the accused could be prosecuted in a criminal Court for breach of the terms of the contract. The right to take legal action is quite different from the right to proceed with criminally."

5. Following the above said order and for the reasons recorded therein, this criminal petition is also allowed and all the proceedings against the petitioner in Crime No.207 of 2011 on the file of 4th Town Police Station, Vijayawada, Krishna District, are hereby quashed.

As a sequel, miscellaneous petitions pending consideration, if any, shall stand closed.

T. RAJANI, J

01.11.2018
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