

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.3841 of 2013

ORDER:

This petition is filed, by the petitioner, seeking for quash of the proceedings in C.C.No.1308 of 2012 on the file of XI Additional Chief Metropolitan Magistrate Court, Secunderabad.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the 1st respondent. None appears for the 2nd respondent in spite of notice.

3. The complaint is filed stating that the petitioner herein stood as a guarantor for the loan taken by the principal debtor. The counsel for the petitioner submits that the amount of loan was mentioned as Rs.1.23 lakhs, while the cheque was issued for Rs.1,40,19,951/-. But a reading of the complaint would show that the housing loan initially was for Rs.One crore and, thereafter, the same was enhanced to Rs.23 lakhs. Hence, the averment in the complaint as Rs.1.23 lakhs can be possibly corrected by an amendment.

4. The counsel for the petitioner submits that the petitioner never stood as a guarantor and that the complaint is filled with mistakes, which cannot be corrected. But this court finds that there are no substantive mistakes, except the above.

5. The counsel also submits that there is no explanation in the complaint as to how the loan, even if it is considered as Rs.1.23 crores, has gone upto Rs.1.40 crores. Though there is no averment with regard to the interest, it can be assumed that the cheque issued was towards principal + accrued interest. Hence, unless the trial of the matter is taken up, those facts would not come to light. All these aspects have to be gone into at the time of trial.

6. Hence, in view of the above, this court opines that this is not a fit case for quash of the proceedings against the petitioner.

7. With the above observations, the Criminal Petition is dismissed. Interim stay granted on 26.06.2013 shall stand vacated.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

September 10, 2018
LMV