

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.6956 AND 9445 of 2011

COMMON ORDER:

These petitions are filed by the petitioners, who are accused Nos.1 and 4 respectively, seeking to quash the C.C.No.26 of 2011 on the file of the court of Judicial Magistrate of First Class, Addanki. The offences alleged are under Sections 120(b), 379 and 420 IPC.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing for the 1st respondent as well as the counsel appearing for the 2nd respondent.

3. The complaint is filed stating that these petitioners, along with other accused, have committed theft of the amount, which was withdrawn from the complainant from the Bank, on 18.11.2004. The counsel for the petitioners submits that the incident occurred on 18.11.2004 and the complaint is filed on 17.07.2006 without any explanation.

4. A perusal of the complaint shows that the explanation given by the complainant for the delay is that he was threatened by the accused and that hence, he kept silent.

5. The counsel for the petitioners submits that as per the account statement, there was no withdrawal from the *de facto* complainant on 18.11.2004. But, however, the charge sheet shows that the complainant has withdrawn the amount. The statement furnished by the counsel for the petitioners

cannot be looked into as it is not an authenticated document, it being only a photo copy.

6. Hence, in view of this above, this court opines that all these are the facts, which have to be decided only at the time of trial.

7. With the above observations, the Criminal petitions are dismissed. However, the plea of the petitioners' counsel that the presence of the petitioners may be dispensed with, can be considered and the Court below is directed not to insist upon the presence of the petitioners unless it is necessary for the proceedings of the case. Interim stay granted by this court by order dated, 30.08.2011 in CRLP MP No.7185 of 2011 and the order, dated 30.09.2011, in CRLP MP No.10304 of 2011, in these petitions respectively, shall stand vacated.

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

T. RAJANI, J

November 26, 2018
LMV