

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.7554 of 2011

ORDER:

This petition is filed seeking for quash of the proceedings against the petitioner - accused in Crime No.394 of 2011 of Panjagutta Police Station, Hyderabad. The offences alleged against the petitioner are under Sections 418 and 420 IPC.

2. Heard the counsel for the petitioner, the Public Prosecutor appearing for the 1st respondent and of Sri K. Pradeep Reddy, the counsel appearing for the 2nd respondent.

3. The complaint is filed stating that there are business transactions between the complainant and the petitioner and that the petitioner placed an order with the complainant for supply of goods and, after supply of the said goods, the petitioner failed to pay the amount which is due for supply of goods. The said act of the petitioner is considered as an act of cheating and this complaint is filed.

4. The counsel for the petitioner submits that the complainant filed another complaint seeking for prosecution of the petitioner for the offence under Section 138 of Negotiable Instruments Act (for short, 'the N.I. Act') and the same is not disputed by the learned counsel for the 2nd respondent.

5. The counsel for the petitioner relies on the ruling of the Hon'ble Apex Court in Kolla Veera Raghav Rao v. Gorantla

Venkateswara Rao and another¹, wherein it was held that when the accused is convicted for the offence under Section 138 of the N.I. Act, he cannot be again tried or punished on the same facts under Section 420 IPC or any other provision of IPC or any statute; the language used in Article 20(2) of the Constitution of India and Section 300 (1) of Cr.P.C were considered and the Court held that although the offences are different, the facts are the same in that case.

6. Even in this case, the facts constituting the cause of action in the earlier crime and the present crime are one and the same.

7. Hence, this Court opines that continuation of further proceedings against the petitioner would be an abuse of process of law.

8. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner - accused in Crime No.394 of 2011 on the file of Panjagutta Police Station, Hyderabad, are hereby quashed.

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

T. RAJANI, J

September 12, 2018
V V

¹ 2011 LawSuit (SC) 117