

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.4399 OF 2018

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the charge sheet C.C.No.45 of 2012 on the file of Judicial First Class Magistrate, Visakha District, registered for the offences punishable under Sections 409 and 420 of Indian Penal Code (for short "I.P.C.").

The case of the prosecution, in brief, is that the accused is working as Junior Assistant in Agricultural office Chinthapalli unauthorizedly withdrawn an amount of Rs.40,369/- being the SLS of L.W.1, into the Union Bank account instead of the account of the L.W.1 and used the same to his own and thereby misappropriated and cheated the complainant, later absconded from the office.

On the strength of the complaint, police registered the same as crime No.38 of 2011 of Chinthapalli Police Station and issued F.I.R. During investigation, investigating agency examined L.Ws.1 to 4 and recorded their statements under Section 161 of Cr.P.C. and filed charge sheet before the Judicial First Class Magistrate, Chintapalli and the same was registered as C.C.No.45 of 2012.

The trial Court after examining the petitioner framed charges against the petitioner. The petitioner pleaded ignorance and claimed to be tried. During trial, two witnesses were already examined as P.Ws.1 and 2, at this stage, the accused was absent from attending the Court, the trial Court issued warrant and the same is pending for execution.

The present petition is filed to quash the proceedings in C.C.No.45 of 2012 on the ground that there is no evidence on record to constitute offence punishable under Sections 409 and 420 of I.P.C

The trial has commenced and two witnesses were examined, but the petitioner did not produce the relevant evidence before Court more particularly statements of witnesses recorded under Section 161 (3) of Cr.P.C. In the absence of such material, it is difficult to quash the proceedings based on allegations made in the complaint, APTC Form -101 under Rule 15 of Treasury Rules and the proceedings dated 15.06.2010 issued by the Principal Secretary to Government. To exercise jurisdiction under Section 482 of Cr.P.C., the petitioner has to produce the entire record for perusal to verify and find out whether the allegations made in the complaint against the petitioner would constitute offence punishable under Sections 409 and 420 of I.P.C. But for the reasons best known to the petitioner, he produced the deposition of P.Ws.1 and 2 recorded by the trial Court without producing the statement of other witnesses recorded under Section 161 (3) of Cr.P.C. and other documentary evidence collected during investigation, which forms part of final report. Therefore, on the basis of the material produced before the Court, I am unable to exercise jurisdiction under Section 482 of Cr.P.C. to quash the proceedings at this stage. Moreover, the grounds urged in the petition are not sufficient to quash the proceedings. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

30.04.2018

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