

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.4465 & 4466 OF 2018

COMMON ORDER:

These two petitions, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), are filed by one and the same petitioner, who is A.1 in Crime No.333 of 2017 of Old Guntur Police Station, and in Crime No.325 of 2017 of Kothapet Police Station, Guntur District, registered for the offence punishable under Section 420 read with 34 of the Indian Penal Code, 1860 (for short 'I.P.C.'), to issue a direction to the Station House Officer, Old Guntur Police Station and Kothapet Police Station, Guntur District, to release him on bail in the event of arrest in connection with the above crimes.

The modus operandi of the petitioner in the above two crimes is one and the same. The petitioner, along with one Venkanna Chowdary, pretended himself that he is the owner of a certain property, obtained signatures of the *de facto* complainant and others on various papers and collected an amount of Rs.11,00,000/- from the *de facto* complainant in Crime No.333 of 2017 of Old Guntur Police Station, and Rs.20,00,000/- from the *de facto* complainant in Crime No.325 of 2017 of Kothapet police Station, Guntur District, while agreeing to execute registered sale deed, and therefore, the petitioner, along with Venkanna Chowdary, by impersonation executed agreement of sale, and caused substantial loss to the *de- facto* complainant in both the crimes, on the strength of the above complaints, the police registered crime and issued F.I.Rs.

The main contention of the petitioner is that the allegations made in the complaints would not constitute any offence, much less an offence punishable under Section 420 read with 34 I.P.C. and prayed to issue a direction to the Station House Officer, Old Guntur Police Station and Kotha Police Station, Guntur District, to enlarge him on bail in the event of his arrest in connection with the above two crimes.

The Public Prosecutor opposed these petitions on the ground that there are 11 cases pending against the petitioner and he collected huge amount adopting to same practice, apart from that the investigation is not completed, he may interfere with the further investigation in the event of his enlargement on bail and finally requested to dismiss these petitions.

As seen from the material on record, the petitioner adopted the same practice, such as collecting huge amount and executed documents by impersonating real owners of certain property. Such act would fall within the definition of 'Cheating' as defined under Section 415 I.P.C. and making false promise to execute documents and part with huge amount would constitute an offence punishable under Section 420 I.P.C., therefore, the allegations made in both the complaints would constitute an offence punishable under Section 420 read with 34 I.P.C. and I find, *prima facie*, material against the petitioner.

The investigation is not completed and as there are 11 cases pending against the petitioner, according to the Public Prosecutor, taking into consideration of the facts and circumstances of the case, I am of the view that it is not a fit case to exercise power

under Section 438 Cr.P.C., hence, these criminal petitions are liable to be dismissed.

In the result, these criminal petitions are dismissed.

M.SATYANARAYANA MURTHY, J

23.04.2018
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