

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.10775 of 2011

ORDER:

This criminal petition is filed, seeking for quash of the proceedings in Cr.No.35 of 2011, against the petitioners, who are A1 to A3, on the file of the Station House Officer, Kothagudem III Town Police Station, Khammam District. The offences alleged are under Sections 420, 468, 506 read with Section 34 of the Indian Penal Code.

2. Heard the counsel for the petitioners and the learned Public Prosecutor, appearing for the first respondent. None appears for the second respondent in spite of notice.

3. The case of the complainant is that he has been doing business and A1 was also doing business. A2 and A3 are his wife and son, doing their family business. A1 approached the complainant and introduced himself as the distributor of supply of PEPS Industries Mattress – SPRING KOIL and RESTONIC etc. for the entire districts of Nalgonda and Khammam. The complainant has been doing the business of sale of pillow, mattress etc. and attracted by the said proposal of A1 to A3, the schemes with regard to the sales, targets to give commission etc. he entered into business transactions with the accused. A1 to A3 supplied the stocks as per the orders placed by the complainant and the said purchase transactions took place up to 08.12.2009. The complainant paid an amount of Rs.1,48,406/- through four demand drafts and the said DD's were transmitted through Professional Courier. The accused illegally calculated interest and

showed in the account, as if the complainant is liable to pay Rs.10,256/-, without any basis. The accused have shown a false and fraudulent bill No.124, dated 20.12.2009 as if the complainant has made credit purchase of Rs.50,321/-. The said stocks never reached the complainant till date and it was not acknowledged by him.

4. Based on the above facts, the complaint is filed, seeking for prosecution of the petitioners for the offence under Sections 420, 468, 506 read with Section 34 IPC. The allegations so far as A2 and A3 are concerned are that they have been criminally intimidating the complainant through phone.

5. The counsel for the petitioners submits that there was a civil suit filed by A1 and security was ordered to be given by the defendants therein, who is the complainant herein.

6. But the counsel for the respondent submits that the suit was filed subsequent to the complaint filed by the complainant and that he did not have any knowledge about the filing of the said suit. He also filed a written statement in the said suit O.S.No.198 of 2010, which is stated to be filed by the respondent, in this case, wherein he took a plea of forgery and fabrication of all the credit facilities.

7. Hence, in view of the consistent stand taken by the complainant that the bills were fabricated, this Court opines that it is a matter to be gone into at the time of trial. So far as A2 and A3 are concerned, this Court finds that there is no nexus between A2 and A3 and the alleged transactions between the complainant and A1.

In the light of the above, the criminal petition is partly allowed quashing the proceedings in Cr.No.35 of 2011, on the file of the Station House Officer, Kothagudem III Town Police Station, Khammam District insofar as A2 and A3 are concerned and dismissed insofar as A1 is concerned. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

September 11, 2018
DSK

T. RAJANI, J

