

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION NO. 7619 OF 2013

ORDER :

This Criminal Petition is filed under section 482 of Cr.P.C., seeking quash of the Proceedings in C.C.No. 130 of 2013 on the file of the Court of XII Additional Chief Metropolitan Magistrate, City Criminal Courts, Nampally, Hyderabad.

2. The second respondent did not appear inspite of service of notice. Heard Sri Bajrang Singh Thakur, learned counsel for the petitioner and the learned Public Prosecutor for the first respondent/State.

3. The F.I.R. in Crime No. 134 of 2011 was registered against the petitioner based on a private complaint filed by the defacto complainant for the offences punishable under section 420, 425 and 506 of I.P.C. But in the charge sheet all the other sections were deleted and only section 420 of I.P.C. was shown.

4. The counsel for the petitioner submits that as per the memorandum of understanding between the parties, there is a clause for reference of disputes to the arbitrator. He draws attention of the Court to the said clause of memorandum of understanding, which is recited as clause 9 i.e., mediation and arbitration, which recites that all disputes and differences between the parties should be referred to mediation of the Chief Executive Officers of both the parties and the award of the mediator shall be

final and binding on both the parties. The counsel submits that no such reference was made to the arbitrators. He submits that the defacto complainant earlier gave a report to the Police and the Police called the respondents and the matter was closed considering that it is a civil dispute. The counsel submits that now the defacto complainant files a private complaint based on the same allegations. In the charge sheet the name of Accused No.3 was deleted stating that the amount of Rs.fifty lakhs was not received by him. But a perusal of the complaint shows that the main allegations are made against Accused No.3, as the person who instigated the defacto complainant to issue cheque to Accused No.1. Moreover, the contents of the complaint would show that the complainant-company used to negotiate with A-1 Company, who was engaged in the business of manufacturing quality medicines and Accused No.1 supplied medicines worth Rs.36,23,310/- [Rs. Thirtysix lakhs, twenty three thousand, three hundred and ten only] and later the Company failed to supply. This being the allegation, it can be understood that it would only amount to violation of the terms of contract between the parties and it is clearly of civil nature. The remedies for violation of the contract or other wise than filing of a criminal complaint. No element of cheating appears from the allegations made in the complaint. Hence, this Court opines that all further proceedings in the above C.C.No. 130 of 2011 on the file of the Court of XII-

Additional Chief Metropolitan Magistrate at Hyderabad, would only result in abuse of process of law.

5. In the result, the Criminal Petition is allowed and all further proceedings in C.C.No. 130 of 2011 on the file of the Court of XII-Additional Chief Metropolitan Magistrate, Hyderabad, be and are hereby quashed.

6. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand disposed of.

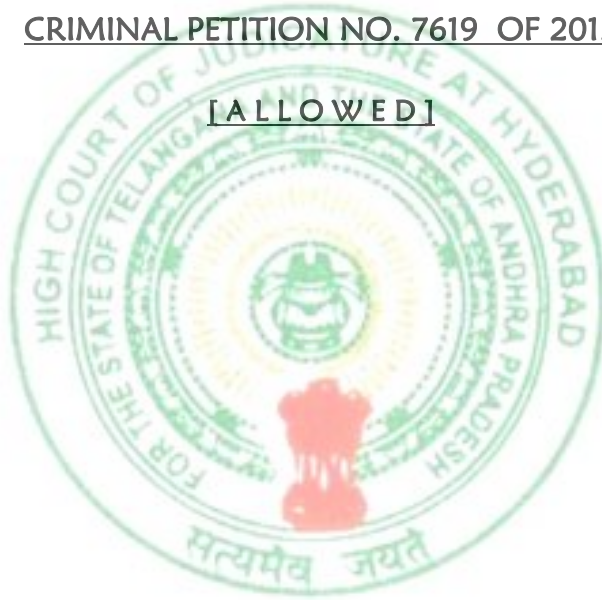


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[ALLOWED]



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