

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.3052 OF 2011

ORDER:

1. This Criminal Petition under Section 482 Cr.P.C. is filed by Accused No.1 seeking to quash the proceedings in CC.No.151 of 2006 pending adjudication on the file of learned Judicial Magistrate of First Class, Penukonda, for the offence punishable under Section 420 IPC.

2. The contention of the petitioner/A.1 is that the allegations levelled against him do not constitute the alleged offence punishable under Section 420 IPC.

3. Per contra, learned Additional Public Prosecutor submits that there is an agreement entered into between the petitioner and second respondent and that from the inception of the agreement, the petitioner/A.1 and other two accused intend to cheat the second respondent and accordingly neither they (accused) returned initial payment nor paid income with profits, which shall clearly constitutes an offence punishable under Section 420 IPC.

4. Despite service of notice, none appeared for the second respondent nor is made representation on his behalf.

5. The second respondent made a complaint against the petitioner/A.1 and two others on 29.03.2005 which was registered as a case in Crime No.41 of 2005 on the file of Station House Officer, Police Station, Puttaparthi. A perusal of the complaint and charge sheet goes to suggest that on 17.11.2002 there was an agreement between second respondent and petitioner for maintenance of cable net work. Towards the share of complainant/second respondent, in terms of the agreement, he (complainant) provided cable material worth of Rs.4.00 lakhs agreeing for the management by the petitioner and two other accused. The petitioner/A.1 with the assistance of A.2 and A.3 was running the cable net work system at Puttaparthi and was maintaining about 2,500/- connections in and around Puttaparthi. It is also alleged, more so finding of the Investigation Officer in the charge sheet, that the complainant trusted the entire management of the petitioner/A.1 and other two accused and supplied cable material worth of Rs.4.00 lakhs towards his share.

6. The petitioner and other two accused with malafide intention wanted to cheat the complainant at the instance of agreement dated 17.12.2000. All the accused neither returned initial payment of Rs.4.00 lakhs which was paid in terms of the agreement towards his share nor paid any income with profits as per his share to which he is legally entitled to. The above facts clearly made out a prima facie case to prosecute the petitioner.

7. There is nothing to suggest that by giving complaint the second respondent has abused the process of Court or any prejudice is caused to the petitioners.

8. In the result, the Criminal Petition is dismissed while vacating the interim stay granted on 7.4.2011 in CrI.M.P.No.3228 of 2011.

10. Miscellaneous petitions pending consideration if any in the criminal petition shall stand closed in consequence.

13th March, 2018.
Msnr_x



JUSTICE N. BALAYOGI