

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.6900 of 2018

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed to quash the proceedings in Crime No.127 of 2018 of Tandur Town Police Station, Vikarabad District, registered for the offence punishable under Section 420 IPC.

The Mandal Agricultural Officer, Tandur Mandal, submitted a written report with the police on 21.06.2018 alleging that on inspection of the premises of M/s Mallikarjuna Agencies, Tandur, on 21.06.2018, he noticed certain contraband and the products offered for produce of sale were not included in the license and the products are as follows:

- (1) Fertilizer 20: 20: 0: 13 – 269 bags of Bumitomo Limited;
and
- (2) Pesticides – not included in licence.

Non inclusion of the products in the license is contravention under Section 4(A) of the Provisions of Fertilizers Control Order and requested to investigate into the crime. On the basis of the complaint, the Police of Tandur, registered the same as a case in Cr.No.127 of 2018 for the offence under Section 420 IPC.

The only contention before this Court by the petitioners is that none of the allegations made in the complaint do not constitute any offence punishable under Section 420 IPC.

During the course of hearing, the learned counsel for the petitioner reiterated the same contention. Whereas, the learned Public Prosecutor for the State of Telangana fairly conceded that the

allegations made in the complaint do not constitute any offence punishable under Section 420 IPC and the statements recorded by the police under Section 161(3) Cr.P.C. also do not disclose any commission of offence muchless under Section 420 IPC.

The petitioners were found stocking 269 bags of fertilizers i.e., fertilizer 20:20:0:13 and the pesticides for sale of those items, no licence was obtained. If no licence was obtained, it is a contravention of Fertilizers Control Order and it is an offence punishable under Section 7 (A) or 8 of Essential Commodities Act and it appears from the allegations made in the complaint that Section 6-A proceedings under Essential Commodities Act are already initiated. Therefore, none of the allegations would constitute any offence punishable under Section 420 IPC.

In V.Y. Jose and another v. State of Gujarat and another¹, the Apex Court highlighted the ingredients to constitute an offence punishable under Section 420 I.P.C in paragraph 14 and they are as follows:

“An offence of cheating cannot be said to have been made out unless the following ingredients are satisfied:

- i) deception of a person either by making a false or misleading representation or by other action or omission;
- (ii) fraudulently or dishonestly inducing any person to deliver any property; or
- (iii) To consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.

For the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Indian Penal Code can be said to have been made out.”

In view of the law declared by Apex Court, to constitute an offence punishable under Section 420 IPC, there should not only be

¹ (2009) 3 Supreme Court Cases 78

cheating, but as a consequence of cheating, the accused should have dishonestly induced the person deceived to deliver any property to any person, or to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

By applying the same principle to the present facts of the present case, the allegations made in the complaint do not constitute the offence punishable under Section 420 IPC. Therefore, I find that it is a fit case to exercise power under Section 482 Cr.P.C. to quash the proceedings in Crime No.127 of 2018 of Tandur Town Police Station, Vikarabad District.

Accordingly, this Criminal Petition is allowed and the proceedings in Cr.No.127 of 2018 of Tandur Town Police Station, Vikarabad District, are hereby quashed.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 14-08-2018

Note : Issue C.C. by 17.08.2018
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