

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.12747 OF 2013

ORDER:

This petition is filed by the petitioner, who is the accused, seeking to quash the proceedings against him in C.C.No.347 of 2013 on the file of the court of III Additional Chief Metropolitan Magistrate at Hyderabad. The offences alleged are under Sections 409, 420 and 506 IPC.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the 1st respondent. None appears for the 2nd respondent in spite of notice.

3. The case of the complainant is that the accused had approached him with a proposal to start a business and to share profits at 50-50%. Later the complainant invested huge amount to an extent of Rs.45 lakhs, but the accused did not start the business and when he questioned, he executed an agreement on a bond paper of Rs.10/- stating that he would discharge the said amount and thereafter the accused disappeared and his whereabouts are not known. On verification, the complainant came to know that the accused was residing in Mahaboobnagar District.

4. The counsel for the petitioner submits that it was an oral agreement between the parties and that due to some reasons, the accused could not start his business and he promised to repay the amount by virtue of an agreement entered into

between the parties and the clause pertaining to the default of the agreement has also been incorporated in the said agreement showing that the complainant can opt the assets of the accused and his family.

4. He relies on a judgment of this court reported in COROMANDAL CEMENTS LIMITED V. STATE OF A.P¹, wherein this court also had dealt with similar facts. In the said case also, the 3rd respondent was a developer of energy and an agreement came to be entered into between the 3rd respondent and the petitioners therein with regard to the purchase of the energy. Thereafter, there was a breach of the said agreement. The court held that the said dispute is purely a civil dispute.

5. In the case on hand, it can be seen that even after the violation of the agreement entered into between the parties with regard to the business, the complainant has entered into a fresh agreement with the accused by virtue of which the accused agreed to repay the amount and on his failure to repay the amount, the complainant was permitted to take over all the property or any assets of his family.

6. In view of the above, this court opines that continuation of further proceedings against the petitioner would be an abuse of process of law.

¹ 2006(2) ALD (CrL.) 234 (AP)

7. With the above observations, the Criminal Petition is allowed and the proceedings in C.C.No.347 of 2013 on the file of the court of III Additional Chief Metropolitan Magistrate at Hyderabad, against the petitioner, shall stand quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T.RAJANI, J

December 17, 2018
LMV

