

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8675 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, is filed by the Petitioners/A-1 and A-2 to quash the proceedings in Crime No.900 of 2018 of Rajendranagar Police Station, Cyberabad Commissionerate, registered for the offences punishable under Sections 420, 406, and 506 R/w.34 of I.P.C.

2. Heard, the learned counsel for the petitioners, learned Public Prosecutor appearing for the respondent-State, and perused the material on record.

3. The allegations in the complaint lodged by the 6th respondent - *de-facto* complainant are that the de-facto complainant, after going through an advertisement posted in OLX, by A-2, for sale of Car of Jaguar XF 2.2 (diesel) with registration No.TS12 EG 4141, went to their residence at Pearl County, Attapur, on 23.04-2018, met A-1, who is father of A-2 and alleged 1st owner of the car, believing their words that the car is genuine without any accident history, wonderful in condition, and need not attend any issues till one year from then, purchased the car for a total amount of Rs.29,00,000/- by depositing an amount of Rs.2,00,000/- in the account of A-1, also by depositing Rs.6,00,000/- in the account of another person as directed by them, and balance Rs.21,00,000/- was paid in cash for which the petitioners executed a delivery note and handed over the car to the de-facto complainant along with transfer papers. Further, the de-facto complainant also incurred an amount of Rs.52,000/- towards renewal of car insurance and also for getting transfer of C.C. to Medhcal R.T.A. Later, when the de-facto complainant approached the Service Center at

Kondapur, it came to light that the car was involved in a major accident in 2016 and subsequently it was declared as total loss car and the insurance company settled the claim and scrapped the car. Thereafter, when the de-facto complainant requested the petitioners to refund the amount by taking the car amicably, they threatened the de-facto complainant and asked him to settle the matter in the Court. Basing on the said complaint, a case in Crime No.900 of 2018 was registered by Rajendranagar P.S. and issued F.I.R. for the aforesaid offences. Aggrieved by registration of Crime No.900 of 2018, the petitioners filed the instant Petition to quash the proceedings in Crime No.900 of 2018 on the ground that the de-facto complainant is not the owner of the car, since the car is not transferred in his name, and thereby he is disentitled to lodge report with the Police.

4. Learned counsel for the petitioners reiterated the said contentions during hearing and submits that unless the de-facto complainant is owner of the car, he is incompetent to lodge complaint against the petitioners; thereby, very entertaining of the complaint by the Police and investigating into the matter is a serious illegality and requested to quash the proceedings.

5. As seen from the allegations made in the complaint, dated 02.08.2018, lodged with the Police, the de-facto complainant purchased the car for Rs.29,00,000/-, though it is a total loss or scrapped car, and the petitioners hiding this fact made dishonest misrepresentation with the de-facto complainant to part with huge amount of Rs.29,00,000/-. Therefore, sale of total loss or scrapped car by the petitioners to the de-facto complainant for Rs.29,00,000/- making dishonest representation may *prima-facie* attract the offence under Section 420 of I.P.C. even though the car is not transferred in his name. Moreover, basing on the allegations made in the complaint lodged with the Police F.I.R. is registered accepting

on its face value the allegations made therein are true, constitutes an offence punishable under Section 420 of I.P.C. Therefore, I find no substance in the contention raised by the learned counsel for the petitioners. Moreover, at this stage, the Court cannot quash the proceedings since the investigation is at foetus stage and this Court cannot exercise such power under Section 482 of Cr.P.C. since such power can be exercised sparingly in exceptional circumstances to give effect to the orders passed under the Code or to prevent abuse of process of the Court or to secure ends of justice.

6. The principle laid down ***Medchl Chemicals and Pharma Private Limited Vs. Biological E.Limited***¹ is identical to the principles laid down in ***Mrs. Dhanalakshmi Vs. R.Prasanna Kumar***² and there is no quarrel about law declared by the Apex Court and this Court cannot venture to examine the correctness or truth in the allegations made in the complaint. The same principle is reiterated in ***State of Orissa Vs. Saroj Kumar Sahoo***³, wherein the Apex Court held that the inherent powers under Section 482 Cr. P.C. should not be exercised by the High Court to stifle a legitimate prosecution. The High Court, being the highest Court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. While exercising jurisdiction under Section 482 of the Cr.P.C., it is not

¹ AIR 2000 SC 1869

² AIR 1990 SC 494

³ (2005) 13 SCC 540

permissible for the Court to act as if it was a trial court. Even when charge is framed at that stage, the Court has only *prima facie* to be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

7. Thus, in view of the principles laid down in the above decisions, I find that it is not a fit case to exercise power under Section 482 Cr.P.C. to quash the proceedings in Crime No.900 of 2018 as the investigation is not yet commenced except registration of the Crime. However, liberty is given to the petitioners to renew their request at appropriate stage.

8. Accordingly, the Criminal Petition is dismissed.

As a sequel, miscellaneous petitions, if any pending, in this Petition shall stand dismissed.

Date: 20.08.2018.
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M.SATYANARAYANA MURTHY, J

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