

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9366 OF 2018

ORDER:

This Criminal Petition is filed by the petitioners-A1 and A2 under Section 482 Cr.P.C. to quash the proceedings in Cr.No.163 of 2018 of Mirchowk Police Station, Hyderabad, registered for the offences punishable under Sections 420, 406 and 506 r/w 34 IPC.

2. The 2nd respondent-B.Siva Krishna, lodged English typed report with the police alleging that he worked as site Engineer with Sripriya Constructions from 2009 to 2015. Koneru Radha Krishna, Koneru Hemlatha and Koneru Vamshi are the partners of Sripriya Constructions. In the year 2015, all three of them promised and assured the de facto complainant, an agreement was entered by them at City Civil Court, Purana Haveli, Hyderabad, to invest Rs.4,50,000/- with their company as working partner. They also assured that they will get profits from the investment. At that time, the de facto complainant had no money with him, he borrowed money from his brother C.Ravindra Babu and invested in their company as working partner. In return, one of the partner Koneru Hemlatha issued two cheques for Rs.2 lakhs each, bearing Nos. 919148, dated 05.10.2015 and 919149, dated 10.10.2015 as security and also issued acknowledgment on the letter head of the company, describing him as working partner. Meanwhile, he completed the assigned work and completed the site and handed over to the concerned officials.

On 21.11.2015, when the cheques were deposited in the account of his brother C. Ravindra Babu, they were returned unpaid and when the de facto complainant questioned about the repayment of the amount, they were

postponing the payment on one pretext or the other and finally, when he insisted for payment of the amount, they threatened him with dire consequences.

3. Based on the complaint, police registered the above crime for various offences referred above and issued F.I.R. The investigation is pending and not yet completed. The proceedings are challenged by filing the present petition under Section 482 Cr.P.C. on the ground that the allegations made in the complaint do not constitute any of the offences, much less the offence punishable under Section 420 IPC and that even if the allegations made in the complaint are accepted, the Investigating Officer cannot proceed against the petitioners and therefore, requested the Court to quash the proceedings against the petitioners.

4. During the hearing, learned counsel for the petitioners vehemently contended that the allegations do not constitute any offences and **drawn** the attention of this Court the allegations made in the complaint, dated 19.08.2018 lodged by the 2nd respondent and requested to quash the proceedings against the petitioners.

5. As seen from the allegations made in the complaint, the petitioners being the partners of Sripriya Constructions lured the de facto complainant with high returns on investment and the de facto complainant allegedly invested Rs.4,50,000/- with an assured profit at high rate. Koneru Hemlata also issued two cheques for Rs.2 lakhs each bearing Nos. 919148, dated 05.10.2015 and 919149, dated 10.10.2015 as security, but they did not pay the amount as assured. When the cheques were presented in the account of C.Ravindra Babu, they were returned unpaid by the payee bank. The de facto complainant though

insisted for repayment of the amount, they postponed for one reason or the other and finally, they threatened the de facto complainant with dire consequences.

6. The investigation is not yet commenced as per the material available on record and when the complaint disclosed commission of criminal offence more particularly the offence punishable under Section 506 IPC in view of specific allegation that the petitioners threatened the de facto complainant with dire consequences when he demanded for payment of amount, this Court cannot exercise the power under Section 482 Cr.P.C. to quash the proceedings and further, it is settled law that the Court cannot examine in detail the allegations made in the complaint while exercising the power under Section 482 Cr.P.C. in view of law declared by the apex Court in ***Mrs.Dhanalakshmi v. R.Prasanna Kumar***¹ and ***Umesh Kumar V State of A.P.*** ². At best, this Court can evaluate the material and conclude whether the allegations made in the F.I.R. or the complaint constitute any offence under any penal law and if the Court satisfies that the allegations made in the complaint discloses commission of offence, the Court can decline to exercise the power under Section 482 Cr.P.C. The apex Court in ***Kurukshetra University v. State of Haryana***³ and ***State of Orissa v. Saroj Kumar Sahoo***⁴ consistently held that the Court cannot exercise the power to stifle legitimate prosecution when the facts are incomplete and hazy. Further, in view of the law declared by the apex Court in ***Sanapa Reddy Mahider Seshagiri and another v State of A.P. and another*** ⁵, this Court cannot exercise the power under Section 482 Cr.P.C. to quash the proceedings and cannot

¹ AIR 1990 SC 494

² AIR 2014 SC 1106

³ (1977) 4 SCC 451

⁴ (2005) 13 SCC 540

⁵ (2007) 13 SCC 165

express that the allegations made in the complaint would attract any particular penal provision in the I.P.C. or any other enactment. Since the evidence is not collected, I am not inclined to quash the proceedings by exercising the power under Section 482 Cr.P.C. and that the allegations made in the complaint disclose commission of cognizable offence.

7. Accordingly, the Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions, if any pending in this petition shall stand closed.

DATED: 04-09-2018.
Hsd

M.SATYANARAYANA MURTHY, J

