

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12014 of 2018

ORDER:

The petitioners are accused Nos.1 & 2 in crime No.764 of 2018 on the file of Banajara Hills Police Station, Hyderabad, registered for the offences punishable under Sections 420 & 468 IPC. It is outcome of the report of the 2nd respondent-defacto complainant no other than the Accounts Officer of one Sanjay Agarwal. Sanjay Agarwal is owner of the premises let out to Super Build India Private Limited as a tenant by rental agreement dated 14.04.2009.

The sum and substance of the accusation in the report of the defacto complainant in setting the law in motion is that for recovery of the arrears of rent there is a suit in OS.No.69 of 2017 filed for direction to deposit the rents. In the course of enquiry, the 1st accused who is the Director of Super Build India Private Limited filed some documents showing under the so called 3 cash receipts as if issued by defacto complainant as employee under Sanjay Agarwal owner of the premises for alleged payment of Rs.45 lakhs towards part payment of the so called rents/arrears what he says in the report is he never signed said receipts nor received any money from Super Build India Private Limited from Bhupender Surti-A.1, 1st petitioner or Mohammed Imran-A.2 who are the so called witnesses to the payment receipts which are false, forged and fabricated to cheat Sanjay Agarwal if possible. It

is stated that the signatures of the defacto complainant on the receipts thereby forged in filing in the suit as if part payments made and as if he passed the receipts. Hence to take action.

So far as the 2nd accused concerned, it is not even the case that he knows the defacto complainant. If at all the 1st accused being Director of the entity Super Build India Private Limited as a tenant under Sanjay Agarwal must know the defacto complainant who is employee under Sanjay Agarwal and he produced the receipts as if for the payments made by him passed. It is difficult to say in the absence of any material that he forged the same to attract the offence under Section 468 IPC even against him, but for if any against A.1 under Section 420 IPC besides Section 471 IPC of using as genuine a forged or fabricated document, even that offence has no application to A.2 concerned in the absence of showing from is mere attestation attributing any knowledge.

Having regard to the above, the crime registered against the A.2 is liable to be quashed in toto. Accordingly, same is quashed for mere attestation he cannot be implicated for the grave offence under Section 420 & 468 IPC. So far as A.1 concerned, it prima facie attracts instead of Section 468 IPC, it attracts under Sections 420 & 471 IPC.

With these observations, this Criminal Petition is partly allowed. It is made clear that in the course of investigation if at all there is any specific privy so far as A.2 concerned it no

way prevent the police to add him if at all there is any sustainable accusation with foundation from investigation. So far as A.1 concerned, as none of the offences punishable above 7 years the police strictly follow Section 41A Cr.P.C. and also the guidelines of the Apex Court in **Arnesh Kumar v. State of Bihar**¹. From the submission of the learned Public Prosecutor that notice sent to the address of A.1 not available concerned, the police can serve the notice under Section 41A Cr.P.C. by virtue of this order to the advocate for said Bhupender Surti-A.1, Director of Super Build India Private Limited in the civil suit.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 11.12.2018
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¹ (2014 (2) ALT (Gr.) 457 SC)