

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.40262 of 2017

ORDER:

Heard Mr.Purushottam Reddy for petitioner, the Assistant Government Pleader (Home) for respondents 1 to 3, and respondent Nos.4 and 5 are present in person on all the dates of hearing starting from 12.12.2017 till date.

The petitioner/accused in Crime No.277 of 2017 on the file of 3rd respondent is the writ petitioner. The 5th respondent is the complainant. The petitioner prays for mandamus declaring the action of 4th respondent forcing the petitioner to enter into a compromise in his presence in Police Station, Banjara Hills with 5th respondent, particularly by misusing the power of injunction in Crime No.277 of 2017, as illegal and unconstitutional.

The petitioner claims to be a graduate in Computer Science and doing business in the name of Mini Mall for Ladies in the name and Style of 'S2' at D.No.8-2-629/K, Shivalik Plaza, Road No.1, Banjara Hills, Hyderabad. The petitioner claims to profess skills in establishing and running boutique, beauty products, accessories, weight loss etc. For enhancing or doing business, it is not in dispute the petitioner availed the professional service of

5th respondent which resulted in sanction of loan of Rs.45 lakhs by 6th respondent under a popular scheme Stand Up India. The petitioner in support of her case that the 4th respondent is blatantly misusing his official position filed a few annexures as photos, DVD etc., disclosing prima-facie allegation of petitioner against the 4th respondent as correct. Therefore, this Court on 12.12.2017 and on 28.11.2017 issued directions to Commissioner of Police-respondent No.2 to look into the matter and file a report on the allegations against respondent No.4.

It is matter of record that the enquiry has been immediately taken up, into alleged excesses by 4th respondent. The preliminary report in this behalf has been filed by 2nd respondent. Be that as it may. The 4th respondent has placed before the Court, the detailed investigation undertaken, not only on the complaint of 5th respondent but also on a few circumstances which according to 4th respondent reflect fabrication, forgery etc., in sanctioning the loan by respondent No.6.

Today, the Assistant Government Pleader on instructions submits that the 3rd and 4th respondents are filing preliminary charge sheet against petitioner herein and another individual and also reserved option to file

additional charge sheet after Assistant Director General UIDAI, Madhapur, Hyderabad furnishes the information sought by 3rd and 4th respondents.

This Court is of the view that narration thus far and not beyond is sufficient for the present as 3rd respondent is satisfied within his jurisdiction and power that the case is made out against writ petitioner and preliminary charge sheet is filed into Court.

The 5th respondent in the Court pleaded ignorance against omission pointed out against him and prays for not issuing any direction to Institute of Chartered Accountants of India. Further, if a commission or omission is taken note by him, the same may be treated as an enthusiastic act by 5th respondent, on account of inexperience. Neither this Court is appreciating the statement nor giving approval to the stand of 5th respondent. This Court is of the view that the present writ petition ought not to be converted as complaint before the Institute of Chartered Accountants of India against 5th respondent and further enquiry undertaken, hence the matter is not further deliberated and left at that.

As regards 6th respondent, the 3rd and 4th respondents have discovered a few circumstances which may lead to

misleading Banker while processing an application filed under Stand Up India scheme. For the benefit of Bank, and to take note of the lapses pointed by the Investigating Officer, the 3rd respondent is directed to send by way of a report, the omissions and commissions noted in the sanctioning of loan to Deputy General Manager, Hyderabad, Zone-2, Andhra Bank, L.B.Nagar and take necessary action.

With the above observations, by giving liberty to 3rd respondent as noted above, the writ petition is closed. No further order is necessary. No order as to costs.

Though the 3rd and 4th respondents were called with an element of suspicion, the 3rd and 4th respondents by properly assisting the Court have satisfied that during and in the course of investigation, they have not used powers, not conferred in them, much less have abused the powers as alleged by petitioner.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 04.01.2018
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