

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.3959 of 2019

ORDER:

This Criminal Petition under Section 482 of Cr.P.C. is filed by the petitioner, who is Accused No.3, seeking to quash the Non-Bailable Warrants (NBWs) issued against him, in C.C.No.827 of 2013 on the file of the IV Addl.Chief Metropolitan Magistrate at Hyderabad.

The case of the prosecution is that on 15.11.2012, the defacto-complainant/R.2 lodged a complaint stating that he is doing business in the field of real estate and with an intention to develop lands, wanted to purchase one L&T Hitachi Proclainer (JCB) and in that process, he contacted a known marketing person N.Suresh Reddy of Uppal, Ranga Reddy District(A.1), having knowledge and experience in real estate business, who promised and stated that he knows M/s Aruna Motors Private Limited situated at Vijayawada, doing business in the field of Hitachi and the value of the L& T 200 JCB will be about Rs.64,00,000/- approximately and requested the defacto-complainant to issue a Demand Draft for Rs.23,50,000/- in favour of above firm as advance payment and the remaining will be met through financial institutions as loan. Believing the words of Suresh Reddy, the defacto-complainant took a Demand Draft accordingly on 16.08.2012, vide D.D.No.1110 in favour of the above firm drawn on M/s Axis Bank Limited at Malkajigiri to be paid at Vijayawada and handed over in original to said Suresh Reddy,

who promised to deliver L&T 200 Hitachi within no time by arranging the remaining amount from financial institutions. Thereafter, the defacto-complainant realized that said Suresh Reddy in collusion with the M/s Aruna Motors Private Limited, Vijayawada, cheated him with criminal conspiracy and committed misappropriation of his money.

Heard learned counsel for the petitioner/Accused No.3 and the learned Additional Public Prosecutor appearing for the respondent State and none appeared for the respondent No.2. Perused the material on record.

Learned counsel for the petitioner/Accused No.3 contends that basing on the investigation which disclosed that A.1 and A.2 in collusion with A.3 cheated the defacto-complaint, the police filed chargesheet against the petitioner/A.3 also for the offences punishable u/sec.406 and 420 r/w 120(B) IPC. In fact, the petitioner does not know about entire conspiracy but the A.1 who is resident of same apartment, misguided him. The petitioner never involved in the offences alleged against him and he is falsely implicated by police in the year 2013 but the petitioner/A.3 has no knowledge about the case but the police, without issuing mandatory notice under the provisions of the CrPC, filed chargesheet saying that the petitioner is absconding and the Court issued NBW against the petitioner on 20.12.2016 which the petitioner came to know subsequently. Thus, the petitioner prays to recall the NBW issued against him.

On the other hand, the learned Additional Public Prosecutor vehemently opposed the relief sought in the above petition.

In view of the allegations made against the petitioner/ Accused No.3 and gravity of offences alleged against him, the NBW issued on 20.12.2016 against the petitioner/A.3 is stayed for a period of ten (10) days from today. Meanwhile, the petitioner/A.3 shall appear before the trial Court and move an application for recall of the NBW, in which event the trial Court shall consider the same on the same day in accordance with law.

Accordingly, the Criminal Petition is disposed of with the above direction.

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

JUSTICE G. SRI DEVI

14.08.2019.
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