

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 5335 of 2019

ORDER:

1. This Criminal Petition is filed under Section 482 Cr.P.C. seeking quashing of the proceedings in C.C.No.376 of 2017 on the file of the Additional Judicial Magistrate of First Class (Juvenile) at Karimnagar.

2. A charge sheet came to be filed against the petitioner/ accused No.3 and others for the offences punishable under Sections 420, 290, 323 and 506 read with 34 IPC. It is stated that in the year 2016 accused Nos.1 to 3 approached the second respondent-Kandukuri Hari Krishna (LW.1), deceived him that they are doing gold business and i-phone business and they purchased the same on low price ie. 1 tula gold at Rs.20,000/- and i-phone 6S at Rs.25,000/- from Vijayawada. In this regard, they held demo before him by showing 10 gold biscuits, net cash of Rs.20,00,000/- and ten i-phones. Accused Nos.1 to 3 made an offer to the second respondent that they will provide gold to him at Rs.20,000/- per tula. Believing their version, on 14.07.2016, the second respondent handed over Rs.6,00,000/- to them as advance for 50 tulas of gold and accused No.1 executed a promissory note for the said amount and accused No.2 stood as guarantor. When the second respondent approached accused Nos.1 to 3 for gold, they postponed the same on one pretext or other and on 25.02.2017 the accused abused him in filthy language; beat him with hands and also threatened with dire consequences. Basing on the said

allegations a case in Crime No.50 of 2017 came to be registered. After completing the investigation, the police filed charge sheet which was taken cognizance as C.C.No.376 of 2017.

3. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent. Entire record has been perused.

4. Learned counsel for the petitioner/ accused No.3 submits that the petitioner has nothing to do with the alleged crime and his name is implicated only to resolve the issue between the other accused and the second respondent. The transaction between the other accused and the second respondent is purely civil in nature. Hence, the proceedings against the petitioner are liable to be quashed.

5. All the contentions raised by the learned Counsel for the petitioner relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioner. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

6. The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against him in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last

details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

7. Through catena of decisions given by the Hon'ble Apex Court, this legal aspect has been expatiated upon at length and the law that has evolved over a period of several decades is too well settled. The cases of *Chandra Deo Singh v. Prokash Chandra Bose*¹; *Vadilal Panchal v. Dattatreya Dulaji Ghadigaonker*² and *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi*³ may be usefully referred to in this regard.

8. The cases where the allegations made against the accused or the evidence collected by the investigating officer do not constitute any offence or where the allegations are absurd or extremely improbable or impossible to believe or where the prosecution is legally barred or where the criminal proceeding is malicious and *mala fide*, instituted with an ulterior motive of grudge and vengeance alone may be fit cases for the High Court in which the criminal proceedings may be quashed. The Hon'ble Apex Court in *State of Haryana v. Bhajan Lal*⁴ has recognized certain categories in which Section 482 Cr.P.C. or Article 226 of the Constitution of India may be successfully invoked.

¹ AIR 1963 SC 1430

² AIR 1960 SC 1113

³ (1976) 3 SCC 736

⁴ (1992) SCC (Cr.) 426

9. In view of the settled principles of the above case laws, this Court has adverted to the entire case record. The submissions made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial Court and while doing so, even the submissions made on points of law can also be more appropriately gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins.

10. It shall suffice to observe that the perusal of the F.I.R. and the material collected by the investigating officer on the basis of which charge sheet has been submitted makes out a *prima facie* case against the petitioner at this stage and there appear to be sufficient ground for proceeding against him. I do not find any justification to quash the charge sheet or the proceedings initiated against the petitioner as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing. Accordingly, the prayer for quashing is refused.

11. However, it is observed that if the bail has not yet been obtained, the petitioner/accused No.3 may appear before the Court below and apply for bail within a period of fifteen days from today and on such application being filed the Court below shall make an endeavour to decide the bail application on the same day. During the aforesaid period or till the date of appearance of the accused in the Court below, whichever is earlier, no coercive measures shall be taken against the petitioner or given effect to.

12. With the aforesaid direction, the Criminal Petition is disposed of. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

JUSTICE G. SRI DEVI

28.08.2019
gkv



