

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY ,THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

CRIMINAL PETITION NO: 6276 OF 2020

Between:

1. Sri Balaji Enterprises, Rep by Proprietor Smt A. Divya Ganga Bhavani, W/o. Bhupathi Raju Prasanna Subramanya Varma, Age. 35 Years, Occ. Business, residing at Office Address at H.No.MIG-298, Ground Floor, Kukatpally House Board, Hyderabad. Permanent Address H.No.3-133, main road near school, Vendra, Palakoderu Mandal, West Godavari District.
2. Sri Bupathi Raju Prasanna Subramanya Varma, S/o. Appala Raju Varma, Age. 40 Years, Occ. Business, residing at Office Address at H.No. MIG-298, Ground Floor, Kukatpally House Board, Hyderabad. Permanent Address H.No.3-133, main road near school, Vendra, Palakoderu Mandal, West Godavari District.

...PETITIONER/ACCUSED No. 1 &2

AND

1. The State of Telangana, rep by Public Prosecutor of High Court of Telangana, Hyderabad through the SHO, Chilkaiguda Police Station, Hyderabad City District.
2. Sri Devarakonda Venkata Subramanya Laxmi Narayana,, S/o. D S Somayajulu, Age. 56 Years, Occ. Business R/o. G 11 Swagruha Apartment, Gauatri Nagar, Ameerpet, Hyderabad City District.

...RESPONDENTS/COMPLAINANTS

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to and Connected with FIR No.529 of 2020, dated. 09/11/2020 on the file of SHO, Chilkaiguda Police Station, Hyderabad City District, and quash the same as illegal and unjust.

I.A. NO: 2 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay of all further proceedings, including the arrest of the Petitioners/ Accused No.1 and 2 in FIR No. 529 of 2020, dated. 09/11/2020 on the file of SHO, Chilkaiguda Police Station, Hyderabad City District, pending disposal of the Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri LAXMAIAH KANCHANI, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondent No 1.

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

CRIMINAL PETITION Nos.6276 of 2020

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.'), seeking to call for the records connected with FIR / Crime No.529 of 2020 dated 09.11.2020 on the file of Chilkalaguda Police Station, Hyderabad City District for the offences punishable under Sections 420, 422, 406, 506 read with 34 IPC wherein the petitioners are arrayed as accused Nos.1 and 2 and to quash the same.

2. This Criminal Petition is taken up for hearing today, i.e. 21.12.2020, through video conferencing.

3. Heard learned counsel for the petitioners and learned Additional Public Prosecutor appearing for the 1st respondent State. With the consent of both the parties, the above case is taken up for hearing and disposal.

4. Learned Counsel for the petitioners would submit that the petitioner No.1 is a proprietary concern represented by the wife of the 2nd petitioner herein and carrying on the business of supplying networking cables to railways, while the 2nd petitioner is actually conducting business of the 1st petitioner business concern. It is further submitted that in the course of conduct of business, certain cheques on behalf of the 1st petitioner's business concern have been issued, wherein the 2nd petitioner has affixed the signature of the 1st petitioner. It is submitted by the learned counsel that the act of the 2nd petitioner for signing on the cheques as if signed by the 1st petitioner would not amount to the 2nd

petitioner resorting to impersonation and he is entitled to do so being the husband of the proprietor of 1st petitioner business concern and, the defacto-complainant has no locus standi to question such acts of the 2nd petitioner.

5. Learned Additional Public Prosecutor on the other hand would submit that as per the contents of the complaint made by the 2nd respondent-de facto complainant, the petitioners have issued cheque(s) to the defacto-complainant to the tune of Rs.10 lakhs and upon presentation of the said cheque in the bank, the same was dishonoured with an endorsement from the bank authorities, that the signature do not tally. It is also stated in the complaint that upon such dishonour of cheque issued, when the respondent No.2 sought to contact / approach the petitioners at the place where they were carrying on business, found that the business is closed and, as such, approached the respondent authorities and lodged the complaint.

6. Learned Additional Public Prosecutor would further submit that the acts of the petitioner Nos.1 and 2 would clearly attract Sections 420, 422, 406, 506 read with 34 IPC and, as such, the respondent authorities have registered a crime and are investigating into the matter.

7. Learned Additional Public Prosecutor however, would fairly submit that the respondent authorities would follow the procedure prescribed in Section 41-A of Cr.P.C and adhere to the guidelines laid down by the Hon'ble Apex Court in **Arnesh Kumar' v. State of Bihar**¹.

¹ (2014) 8 SCC 273

8. Having regard to the submissions made as above, and considering the fact that the 2nd petitioner instead of issuing cheque belonging to the 1st petitioner business concern under the signature of its proprietor, had issued the cheque as if the same is being issued under the signature of the proprietor of the business concern, this Court is of the view that the investigation into the crime registered against the petitioners herein by the respondent authority is not be interdicted with. However, having regard to the facts and circumstances of the case, the respondent investigating authority is directed to follow the procedure prescribed under Section 41-A Cr.P.C. to the petitioner and strictly follow the guidelines laid down by the Apex Court in the case of **Arnesh Kumar's** case (supra). It is needless to mention that the petitioners shall cooperate with the investigation and furnish necessary documents/information as may be required for expeditious investigation into the crime registered.

9. Subject to the above direction, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

SD/- K. SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Xth Additional chief Metropolitan Magistrate, Hyderabad.
2. The Station House Officer, Chilkalguda Police Station, Hyderabad.
3. Two CCs to Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to SRI. LAXMAIAH KANCHANI Advocate [OPUC]
5. Two CD Copies

CDI.



HIGH COURT

DATED:21/12/2020

ORDER

CRLP.No.6276 of 2020



DISPOSING THE CRIMINAL PETITION

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RMD
31/12/2020