

THE HONOURABLE SRI JUSTICE K. LAKSHMAN**CRIMINAL PETITION No.1233 OF 2021****ORDER:**

This Criminal Petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in C.C.No.16 of 2020 pending on the file of the Judicial Magistrate of Magistrate for Prohibition and Excise Offences, at Nalgonda. The petitioner herein is accused in the said case. The offences alleged against the petitioner herein are under Sections 420, 342 and 336 of IPC.

2. Heard Sri K.Venumadhav, learned counsel for the petitioner, and Sri Khaja Vizarith Ali, learned Asst. Public Prosecutor for the 1st respondent - State. Perused the record. Despite service of notice, there is no representation on behalf of the 2nd respondent.

3. In the charge sheet and the complaint, the allegations against the petitioner are that Sri Varijala Venugopala Swamy Temple is located on the hillock situated at the outskirts of Gapalaiapally Village, Narketpally Mandal. The petitioner who is known as astrologer and some others without knowledge and consent of the temple authorities, have announced through one Television channel and other social media that the day i.e. 06.03.2019 "Dark Moon Night" (Amavashya) is coming after 89 years and further announced that the public whoever visits the temple and offers prayers of Sri

Varijala Venugopalaswamy, would be purified and all virtual powers would be gained by them. Thereby, the petitioner herein and his followers mislead the public encouraging them towards bad beliefs. As per his ambiguous and unfair statement, a panic situation was occurred on 06.03.2019 in the above temple and its surrounding areas became endangered due to the heavy crowd which caused immense traffic jam on National Highway-65. Even the emergency services like ambulance and fire etc., were also obstructed.

4. During the course of investigation, the Investigating Officer has recorded the statements of 2nd respondent as L.W.1, eye witness as L.Ws.2 to 6. Considering their statements, the Investigating Officer has laid charge sheet against the petitioner herein and the same was taken on file vide C.C.No.16 of 2022 for the aforesaid offences. The said sections are extracted below:-

Section 420 IPC:-Cheating and dishonestly inducing delivery of property.—

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 342 IPC:-Punishment for wrongful confinement—

Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Section 336 IPC:-Act endangering life or personal safety of others—

Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

5. As stated above, the allegations against the petitioners herein are of cheating etc., and the above said witnesses have stated in their statements recorded under Section 161 of Cr.P.C. in the same lines. The contents of the complaint and statements of the witnesses recorded under Section 161 of Cr.P.C. and also charge sheet lacks the ingredients of the offences alleged against the petitioner herein. There is no cheating either from the inception or thereafter by the petitioner herein. Even the contents of the complaint are lacking the ingredients of the offences under Sections 342 and 336 of IPC. Thus, the case squarely falls under the guidelines/parameters laid down by the Apex Court in **State of Haryana vs. Bhajan Lal**¹, for exercise of power of this Court under Section 482 Cr.P.C. and the same are extracted herein:-

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence,

¹ 1992 Supp (1) SCC 335

justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Therefore, the proceedings in C.C.No.16 of 2020 cannot be continued against the petitioner herein and the same are liable to be quashed.

6. In the result, the Criminal Petition is allowed. The proceedings in C.C.No.16 of 2020 pending on the file of the Judicial Magistrate of

First Class, for Prohibition and Excise Offences, at Nalgonda, against the petitioner herein are quashed.

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

K. LAKSHMAN, J

Date: 18.04.2022

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