

THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION Nos.5353 and 5454 of 2022

COMMON ORDER :

Heard Sri Veera Babu Gandu, learned counsel for the petitioners, learned Additional Public Prosecutor who is representing respondent No.1 as well as Sri N.Naveen Kumar, learned counsel for respondent No.2.

2. Seeking the Court to quash the proceedings that are pending against them, the petitioner in CrI.P.No.5353 of 2022 who is arrayed as Accused No.1 and the petitioner in CrI.P.No.5354 of 2022, who is arrayed as Accused No.2 in Crime No.284 of 2022 of Vanasthalipuram Police Station, Rachakonda Commissionerate, have approached this Court.

3. Making his submission, learned counsel for the petitioners contends that the allegations are levelled against the petitioners are absolutely false and the petitioners were maliciously implicated in a false case. Learned counsel for the petitioners also submits that accused No.1 failed to attend his duty as he was tested

Covid positive and due to paralysis attack. Learned counsel also submits that even in the audit reports, there is no mention about misappropriation of any amount or missing of goods and when such is the position, initiation of criminal proceedings against the petitioners is undesirable. Learned counsel submits that the petitioners have not committed any offences much less the offences punishable under Sections 408 and 420 IPC. Learned counsel finally submits that de facto complainant and Police are abusing the process of the Court and therefore, the petitioners approached this Court for quashing of proceedings.

4. Vehemently opposing the said submission, the learned counsel for respondent No.2 contends that the petitioners have misappropriated the goods of the company by dispatching the same without authorization. Learned counsel submits that the computer software was manipulated and thereby systematically the property of the company was misappropriated and hence, a complaint was lodged to Police against the petitioners and others and in case, the case is fully investigated, the real facts would

come to light. Learned counsel further submits that there is deletion of crucial data and the said deletion was done unauthorizedly. Learned counsel also submits that accused No.1 has dispatched the goods from the warehouse without authorization and without creating e-way bills. Learned counsel further submits that Accused No.2, who received the stock, had sold the same with his previous experience causing irreparable loss to the company. By stating so, learned counsel submits that the proceedings should not be quashed.

5. The submission of learned Additional Public Prosecutor is that the case is under investigation and *prima facie* involvement of the petitioners herein is clearly found by the Police concerned.

6. The facts of the case in nutshell as could be perceived through the contents of the complaint are that the defacto complainant is a Carrying and Forwarding (C&F) Agent of M/s. Rallis India Limited. The defacto complainant operates business in the name and style M/s Sri Srinivasa Agencies. Accused No.1 was employed as Manager. The company would have House Logistic Manager and under

the supervision of the said House Logistic Manager, entire transactions should be done. It has come to light that the accused No.1 and others misappropriated the company goods and dispatched those goods without authorization by manipulating company software and misappropriated goods are worth more than Rupees one crore. Accused No.1 stopped coming to the office and failed to respond to the calls and he gave evasive replies. On verification of the stock, the misappropriation was found and the collusion of some other Sales Officers also came to light.

7. The above contentions, as rightly submitted by learned counsel for respondent No.2 requires thorough investigation. When prima facie case is found in the complaint, this Court is of the view that it is wholly undesirable to quash the proceedings on trivial and flimsy grounds. This court does not find any grounds more so justifiable grounds so as to exercise the power granted under Section 482 of the Code of Criminal Procedure and to quash the proceedings. Admittedly, such a power can only be exercised where there are convincing grounds and

circumstances. For the sake of mere asking, the proceedings cannot be quashed.

8. Having found *prima facie* ingredients constituting various offences in the complaint, this Court is of the view that it would be wholly unjustifiable to quash the proceedings.

9. Resultantly, both the criminal petitions are dismissed. Interim order granted earlier stands vacated.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

vns/svl

Dt. 17.10.2022

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CRIMINAL PETITION Nos.5353 and 5354 of 2022

17.10.2022
(vns)