

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.217 and 1823 OF 2021

COMMON ORDER:

1. Since both the Criminal Petitions filed by the accused/petitioners seeking to quash the proceedings against them in C.C.No.7929 of 2020 on the file of VII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, they are being heard together and disposed off by way of this Common Order.
2. Criminal Petition No.217 of 2021 is filed by the petitioners/A3 and A4 and Criminal Petition No.1823 of 2021 is filed by the petitioner/A5.
3. This Court, by order dated 23.01.2023 in Criminal Petition No.10767 of 2022, already quashed the proceedings against the 2nd petitioner/A4 in C.C.No.7929 of 2020 on the file of VII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.
4. As far as 1st petitioner is concerned, she worked as Computer Operator and the statements made by LWs 1 to 4, it is mentioned that A1 used to collect the fee under the supervision of A5.

5. Further, no parents/witnesses are examined to state that the 1st petitioner had collected fee from anyone at any point of time. All the witnesses i.e., Lws 1 to 4 stated that A1 was collecting the fee under the supervision of A5 and A6, however, petitioner was also responsible. No document is filed to substantiate any bank transaction being done by the 1st petitioner/A3. None of the witnesses stated that any amounts were received by the 1st petitioner/A3. On mere assumption that the 1st petitioner/A3 might have taken part in the alleged manipulation along with other accused named in the FIR, there cannot be prosecution of the 1st petitioner/A3.

6. To attract an offence under Section 420 of IPC, it has to be shown that there was fraudulent misrepresentation and the said person must have induced the person deceived to deliver any property. None of the ingredients of Section 420 IPC are attracted in the present case. Further, even according to the LWs 1 to 4, no amounts were entrusted to the 1st petitioner. Therefore, the question of attracting the offence under Section 406 of IPC does not arise.

7. In the result, the proceedings against 1st petitioner/A3 in C.C.No.7929 of 2020 on the file of VII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad are hereby quashed.

8. Insofar as Petitioner/A5 in Criminal Petition No.1823 of 2021 is concerned, the petitioner is a correspondent and as per the statements of witnesses LWs. 1 to 4, A1 was collecting the fee under the supervision of A5 and A6. In the charge sheet, *prima facie*, there are certain allegations leveled against A5. They are triable issues. A5 has to face trial and prove her innocence. The defences taken by her cannot be considered in an application filed under Section 482 Cr.P.C. Therefore, this Court is not inclined to quash the proceedings against A5 in C.C.No.7929 of 2020 on the file of VII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

9. Accordingly, the Criminal Petition No.217 of 2021 is allowed and Criminal Petition No.1823 of 2021 is dismissed. However, the attendance of the A5 is dispensed with in C.C.No.7929 of 2020 on the file of VII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, when

represented by her counsel on record. The attendance of A5 is dispensed subject to filing an affidavit by her stating that in her absence the proceedings conducted by her counsel will not be disputed by her in any manner and also she shall not dispute her identity. However, she shall appear before the learned Magistrate as and when her presence is required. In the event of the petitioner's failure to appear when the Court directs, this order dispensing her attendance would stand cancelled. Miscellaneous applications pending, if any, shall stand closed.

Date: 22.02.2023
kvs

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

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Dt. 22.02.2023

kvs

