

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.1945 of 2022

ORDER:

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused No.2 in C.C.No.1008 of 2022 on the file of I Additional Judicial First Class Magistrate at Mancherial, Mancherial District.

2. The petitioner/A2 is working as Superintendent Engineer in R & B Department. A1 is the brother of this petitioner and A3 is the father. The 2nd respondent/defacto complainant was acquainted with A1 and was frequently visiting the house of one Shyam Kumar, listed as witness No.2 in the charge sheet. A1 informed the defacto complainant stating that he was doing contract works in TRANSCO and said that he knew the officers in the department and would provide lineman job in the TRANSCO Department. By saying so, A1 asked for Rs.30.00 lakhs and also informed that a cheque would be given towards security. Accordingly, the defacto complainant paid the amount to this petitioner, A1 and A3 and according to the investigation, an amount of Rs.30.00 lakhs in total. A1 gave cheque towards security to the 2nd respondent. However no job was provided nor the money returned. In the said

circumstances, the complaint was filed. The police investigated the case and filed charge sheet for the offences of cheating against this petitioner, A1 and A3.

3. Learned counsel for the petitioner would submit that the petitioner is a public servant and has nothing to do with the transactions of the 2nd respondent with A1, if any. Even according to the statements made, bald allegation is made against this petitioner stating that the amount was given to A1 and the family members. In the said circumstances, the question of this petitioner cheating the 2nd respondent does not arise. Learned counsel further submits that several false allegations are made against this petitioner, A1 and A3 and on account of civil disputes between A1 and 2nd Respondent's relative. A cheque was given by A1 when bounced, Section 138 of the Negotiable Instruments Act case is also filed and the same is pending adjudication.

4. On behalf of the 2nd respondent, it was argued that the allegation is one of taking money on the promise of providing Government job. For the said reason, the proceedings have to go on before the trial court.

5. Learned counsel had stated that civil disputes are pending in between the 2nd respondent, L.W.2-Shyam Kumar and A1. The

argument of deliberately making a false complaint due to differences cannot be accepted in a proceeding under Section 482 of Cr.P.C., as they are questions of facts. Any defence of the accused on facts can only be agitated during trial before the competent court and an opportunity has to be given to both the prosecution and defence to adduce evidence.

6. In the present case, it is the specific case of the 2nd respondent that this petitioner, A1 and A3 had fraudulently taken an amount of Rs.30.00 lakhs on the promise of providing government job in TRANSCO Department. *Prima facie*, the ingredients of Section 420 of IPC are attracted. A false statement was made and believing such false statement, an amount of Rs.30.00 lakhs was paid, according to the 2nd respondent. In the said circumstances, there are no grounds to quash the proceedings against the petitioner.

7. Accordingly, the Criminal Petition is dismissed. Since the petitioner is a Government Servant, attendance of this petitioner is dispensed with during Court proceedings subject to filing an affidavit by the petitioner 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, the petitioner 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.

Consequently, miscellaneous applications pending, if any, shall stand disposed.

Date: 22.02.2023
kvs

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

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Dated: 22.02.2023

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