

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.1471 of 2022

ORDER:

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused No.3 in C.C.No.28 of 2022 on the file of I Additional Judicial First Class Magistrate at Mancherial, Mancherial District.

2. The petitioner/A3 is working as Superintendent Engineer in R & B Department. A1 is the brother of this petitioner and A2 is the father. The 2nd respondent/defacto complainant filed a complaint stating that he was induced by false promises by A1 to A5 to invest amounts in their business. It is stated that A1 claimed that he was doing contract job in TRANSCO Department and also would start restaurant in Warangal in the name of "Hungry Birds". According to 2nd respondent, A1 induced him stating that Petitioner was working as Assistant engineer in R & B department and they were doing contract works. He was asked to invest, for which reason, Rs.50.00 lakhs was paid in April, 2018. In the same year, Rs.25.00 lakhs was given in the month of July. It was also informed that the accused would be undertaking Mega Engineering sub contracts and also that this petitioner/A3 and the father-A2 would provide

contracts. Believing the said version, total Rs.2,27,00,000/- was paid to the accused. The 2nd respondent grew suspicious about the business activity and asked this petitioner, A1 and A2 to return the amount invested by him. However, this petitioner and others stated that there was no business and the accused started blaming one another. For the reason of taking the amount fraudulently from this 2nd respondent, criminal complaint was filed. Police, having investigated the case, filed charge sheet for the offence of cheating and criminal intimidation against this petitioner/A3 and four others.

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 on account of civil disputes with A1, a false complaint is filed. 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 doing business and investment. 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 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 fact. 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 A2 had fraudulently taken amount of Rs.2,27,00,000/- on the promise of doing business. *Prima facie*, the ingredients of Section 420 of IPC for making a false statement and believing such false statement, an amount of Rs.2,27,00,000/- was paid, according to the 2nd respondent. In the said circumstances, all the grounds that are raised herein can only be agitated before the concerned Court during trial. 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.

K.SURENDER, J

Date: 22.02.2023
kvs

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