

**THE HONOURABLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION Nos.3653, 3654 & 3656 OF 2021**

**COMMON ORDER:**

These Criminal Petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioners/Accused who are respondents 2 to 6 in CrI.M.P.No.548 of 2019 in Cr.No.413 of 2017, to quash the proceedings against them in Crime No.413 of 2017 on the file of Chaitanyapuri Police Station, Rachakonda District. The offences alleged against them are under Sections 385, 406 and 506 of the Indian Penal Code.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The 2<sup>nd</sup> respondent in all these petitions is defacto complainant who filed the complaint before the Chaitanyapuri Police Station stating that her husband was owning a Bar and Restaurant and Accused No.2-Gali Narayana Reddy was working in the Bar as Accounts Manager. During the said business, the said Narayana Reddy and the husband of the 2<sup>nd</sup> respondent were acquainted and became family friends. During the course of business, chits were being run by Accused No.1. According to the complaint inspite of the instalments of the chits being paid, the

said Narayana Reddy has not returned the amounts given. However, the husband of the 2<sup>nd</sup> respondent died on 07.10.2015 and taking advantage of his death, certain blank signed cheques, blank signed pro-notes which were with the said Narayana Reddy, given as security while her husband was alive, were misused. A criminal complaint was filed and also civil suits were also filed.

4. The police having received the complaint registered the complaint for the offence under Section 385, 406, 506 of the Indian Penal Code. However, having investigated the case and examined the witnesses, the Police found that all the transactions were during the course of business and the disputers were civil in nature. Aggrieved by the final report, the 2<sup>nd</sup> respondent filed protest petition before the XI Metropolitan Magistrate at L.B.Nagar (Judicial Magistrate of First Class, Special (Mobile) PCR Act, Ranga Reddy district-cum-VI Additional Metropolitan Magistrate-cum-VI Additional Junior Civil Judge, Cyberabad at L.B.Nagar) and the learned Magistrate passed the docket order dt.30.08.2019 which reads as follows;

“Complainant is present. Perused the record and statements of witnesses. Cognizance is taken for the offences under Section 385, 406 and 506 of the Indian Penal Code. The complainant shall submit list of witnesses before issuance of process to the accused.

Issue summons to the accused persons 2 to 6 on payment of process by the complainant. Call on 01.10.2019.”

5. The learned Magistrate according to the docket order has not examined any witnesses on oath. The procedure which is followed by the learned Magistrate is under 200 of the Cr.P.C. The learned Magistrate ought to have examined the witnesses on oath and on the basis of such examination, the learned Magistrate ought to have come to a conclusion by giving reasons as to why cognizance is taken against the petitioner. The docket order is vague and does not give facts of the case and the reasons as to why the court has to come to a conclusion that such facts *prima facie* make out an offence under Section 385, 406 and 506 of the Indian Penal Code.

6. Narration of the facts of the case and the basis on which the Court was satisfied and issued summons are lacking in the said order. For the said reason the docket order dt.30.8.2019 passed in CrI.M.P.No.548 of 2019 in Cr.No.413 of 2017 by the Judicial Magistrate of First Class, Special (Mobile) PCR Act, Ranga Reddy district-cum-VI Additional Metropolitan Magistrate-cum-VI Additional Junior Civil Judge, Cyberabad at L.B.Nagar, is set aside. However, the parties are at liberty to avail remedies as

provided under law. This order will not preclude the Magistrate from taking cognizance by giving reasons.

7. Accordingly, all the criminal petitions are disposed off.

Miscellaneous applications pending, if any, shall stand closed.

Date: 19.01.2023  
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**K.SURENDER, J**

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**Dt. 19.01.2023**

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