

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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CRIMINAL PETITION No.2752 OF 2012

ORDER:

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This petition is filed by the petitioners-accused Nos.1, 2 and 5 under Section 482 Cr.P.C. seeking to quash the proceedings against them in CC No.28 of 2011 on the file of Special Mobile Judicial Magistrate of First Class, Nizamabad.

Heard and perused the material available on record.

The case of the prosecution is that the 1st petitioner used to run chit business and the de facto complainant is a known person to her. The 1st petitioner used to take hand loans also from the de facto complainant. The 1st petitioner requested the de facto complainant to provide a huge amount from any person. Believing her words, the de facto complainant arranged an amount of Rs.70,00,000/- from different persons and gave it to the petitioners and A3 and A4 on different dates. Thereafter, the petitioners did not repay the amount. They used the said amount for purchasing apartments, plots and gold ornaments. The whereabouts of the 1st petitioner were not known the de facto complainant. Therefore, the de facto complainant lodged a complaint against the petitioners before the III-Town Police Station, Nizamabad, and basing on the same, the police registered a case in Crime No.29 of 2009 for the offence under Section 420 IPC. After completion of investigation, the police filed Charge sheet against the petitioners before the Court concerned for the offence under Section 420 IPC and the same was numbered as CC No.28 of 2011.

While ordering notice to the 2nd respondent – de facto complainant on 15.03.2012, this Court granted interim stay of all further proceedings in CC No.28 of 2011, for a limited period. Thereafter, the order of interim stay was extended from time to time.

Today, when the matter is taken up for hearing, learned counsel for the petitioners submitted that subsequent to the order of stay passed by this Court, the trial Court proceeded with the trial against the other two accused i.e. A3 and A4 and after due trial, the trial Court acquitted A3 and A4 on the ground that the prosecution evidence does not disclose any offence, more particularly, the offence under Section 420 IPC, against A3 and A4. He further submitted that the petitioners are also standing on the same footing and the witnesses to be examined are also the same, who were already examined and hence, the benefit that was given to A3 and A4 may also be given to the petitioners – A1, A2 and A5.

Considering the facts and circumstances of the case and also in view of the above submissions of the learned counsel for the petitioners, this Court is inclined to pass the following order:

The Criminal Petition is allowed and the the proceedings against the petitioners – A1, A2 and A5 in CC No.28 of 2011 on the file of the Special Mobile Judicial Magistrate of First Class, Nizamabad, are hereby quashed.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

July 29, 2016.
KTL