

(2013) 07 AP CK 0014

Andhra Pradesh High Court

Case No: Criminal P. No. 3532 of 2013

Smt. Rudravaram Jhansi Rani
and another

APPELLANT

Vs

The State of A.P. and another

RESPONDENT

Date of Decision: July 24, 2013

Citation: (2014) 1 ALD(Cri) 61 : (2014) 1 ALD(Cri) 213

Hon'ble Judges: R. Kantha Rao, J

Bench: Single Bench

Advocate: B. Chandrasen Reddy, for the Appellant; Bethi Venkateswarlu for 2nd Respondent, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

R. Kantha Rao, J.

This criminal petition is filed u/s 482 of Cr.P.C. by the petitioners/Accused Nos. 1 and 2 to quash the proceedings in C.C. No. 82 of 2013 on the file of the XII Additional Chief Metropolitan Magistrate, Hyderabad. I have heard Sri B. Chandrasen Reddy, learned counsel appearing for the petitioners, Sri B. Venkateshwarlu, learned counsel appearing for the de facto complainant and the learned Additional Public Prosecutor representing the State.

2. The de facto complainant filed a complaint in the Court of the XII Additional Chief Metropolitan Magistrate, Hyderabad against the petitioners/accused alleging the commission of offences under Sections 406, 409 and 420 of IPC. It is alleged in the charge sheet that the accused persons have floated a scheme with mala fide intention to collect money from the public and to deceive them, they induced LWS. 1, 2 and others to invest money in a scheme under the caption of "Money Investment Plan" (double your money) and offered to pay double the amount invested within a period of 10, 12 and 20 months. The petitioners collected several lakhs of rupees

from Lws. 1 and 2 and other investors and to make them believe, made some payments and later on, failed to pay the amounts. Some cheques issued by the petitioners were also dishonoured. The complaint was forwarded by the learned Magistrate to the Police, Kachiguda for investigation u/s 156(3) Cr.P.C. The Police after thorough investigation into the case, filed the charge sheet. The allegations in the charge sheet clearly disclose that the petitioners collected several lakhs of rupees from Lws. 1 and 2 and other investors under the aforesaid scheme, made investments in real estate and to make the investors believe, initially they made some payments, subsequently stopped the payments as per the scheme. Some cheques issued by the petitioners were also said to be dishonoured. The details of all the moneys collected by the petitioners/accused have been mentioned in the charge sheet.

3. Sri B. Chandrasen Reddy, learned counsel appearing for the petitioners would submit that the dispute between the parties is purely a civil dispute, in fact, the complainant filed O.S. No. 1009 of 2012 in the Court of the Principal District Judge, Ranga Reddy District at L.B. Nagar for recovery of an amount of Rs. 45,40,000/- In the said suit itself, the de facto complainant gave the details of the payments made by the petitioners and therefore, the petitioners cannot be prosecuted for the offences under Sections 406, 419, 420, 468, 471 r/w 34 I.P.C. In support of his contention, reliance is placed by the learned counsel on Venkat N.N. @ Venkata Narayana N. Vs. The State of A.P. and Sri. K. Rambabu, wherein the learned single Judge held that breach of contract by itself shall not give rise to a criminal prosecution, unless the intention to cheat must be in existence from the inception of contract.

4. The judgment rendered by the learned single Judge is with regard to different set of facts and is not applicable to the present case. The law is well settled that the pendency of a civil dispute between the parties does not preclude criminal action if such civil dispute also constitutes the commission of criminal offence. In the instant case, it is specifically alleged in the charge sheet that from the inception of the contract, the petitioners had in their mind the intention to cheat and with the said dishonest intention, they induced Lws. 1 and 2 and other investors to part with several lakhs of rupees, to make them believe only made some payments and ultimately declined to pay the remaining amounts as per the scheme. This is not a case wherein the allegations in the charge sheet do not constitute the offences which were alleged by the prosecution in terms of the guidelines issued by the Supreme Court in State of Haryana and others Vs. Ch. Bhajan Lal and others . Considering all aspects of the matter, I am of the view that this is a case wherein the offences alleged have to be tried by the learned Court below and I am not inclined to quash the charge sheet in exercise of powers u/s 482 Cr.P.C. However, the trial Court shall not be guided by any of the observations made while disposing of the criminal petition and has to decide the case independently having regard to the facts and circumstances of the case and evidence brought on record. Consequently,

the criminal petition is dismissed.