

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Revision Case No. 445 OF 2023

Between:

M. Nagesh S/o: Janardhan Rao, Age: 54 years, Occ: Business, R/o:
Plot No.106-A, Villa Green, Gandipet, Ranga Reddy District.

... Petitioner/accused No.2

And

1. The State of Telangana., rep by
its Public Prosecutor High Court
For the State of Telangana, at
Hyderabad.

... Respondent No.1/State

2. Abhinan Nallamani @ N. Abhinav Reddy
S/o: N.P.Reddy, Age: 23 years, Occ: Business,
R/o: H.No.2-3-887, Road No.11, Bank Colony,
Nagole, Hyderabad

...Respondent No.2

DATE OF ORDER PRONOUNCED: 02.01.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local
newspapers may be allowed to see Yes/No

the Judgments?

- | | | |
|---|--|--------|
| 2 | Whether the copies of judgment
may be marked to Law
Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship
wish to see the fair copy of the
Judgment? | Yes/No |

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER
+ CRL.R.C. No. 445 of 2023

% Dated 02.01.2024

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! Counsel for the Petitioner: Sri Rama Mohan Palanki

^ Counsel for the Respondents: Additional Public Prosecutor for
State

>HEAD NOTE:

? Cases referred Nil

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL REVISION CASE No.445 OF 2023

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner/accused No.2 aggrieved by the order dated 18.03.2023 in CrI.M.P.No.1000 of 2021 in C.C.No.766 of 2016 on the file of the learned XVII Additional Chief Metropolitan Magistrate, Nampally, Criminal Courts, at Hyderabad, refusing to discharge the petitioner.

2. Heard. Perused the record.

3. Briefly the case of the prosecution is that in the month of February, 2012, accused Nos.1 and 2 approached the defacto complainant and represented that accused No.1 is the Managing Director of M/s. Sanga Mitra Arts Pvt. Ltd. and that they have produced Telugu Movie 'Panja' which became a major hit at box office, yielding huge profits and they can repeat such success. It is further alleged that as accused Nos.1 and 2 induced the de facto

complainant to invest in film production, he gave sum of Rs.37.00 lakhs which was invested in the movie 'Alias Janaki'. It is further alleged that Memorandum of Understanding and agreements were executed on 08.08.2012, 09.04.2013 and 25.07.2013 in respect of financial transactions regarding return of amount to the de facto complainant for any alleged violations of terms of agreement. Accused No.1 issued (05) cheques towards discharge of liability, bearing Nos.58227, 5822, 582289, 582308 and 582309 for a sum of Rs.57.00 lakhs drawn on IDBI Bank, Banjara Hills Branch, which when presented by the de facto complainant were dishonoured.

4. The case of the petitioner is that he is not a signatory to any of the Memorandum of Understandings executed between de facto complainant and accused No.1. Cheques were issued by accused No.1 on behalf of Sanga Mitra Arts and even the cheques do not contain his signature. He further argued that the name of the petitioner/accused No.2 is referred in the complaint only on the ground that he is husband of Neelima Tirumalasetti representing the Sanga Mitra Arts and there is no prima facie case made out against him and therefore he has to be discharged.

5. Learned Magistrate found that in the complaint it is specifically mentioned that this petitioner along with accused No.1 induced respondent No.2 to invest in film making. Since it is alleged that this petitioner, who is the husband of accused No.1 and accused No.1 conspired to deceive the de facto complainant, the complicity of the petitioner can be ascertained during trial.

6. Learned counsel for the petitioner would submit that notice was sent to respondent No.2 and proof of service is filed. None appeared on behalf of the respondent No.2.

7. Admittedly, the transactions were during the period 2012-2013, for the purpose of making a film. It is not in dispute that the film was made. Further it is not in dispute that the amounts were transferred into the account of accused No.1's firm, which is a proprietary concern. All the cheques were signed by accused No.1 and the Memorandum of Understanding were also entered into accused No.1. Only a bald assertion made in the complaint after two years of the transactions in question by filing a

private complaint that this petitioner was also complicit of inducing the de facto complainant to invest money, cannot be made basis to continue criminal prosecution.

8. To attract an offence of cheating, a person should have been induced by making false promise. Pursuant to the said act of inducement, the person should have delivered property. Further the intention of cheating should be inception of the transaction.

9. In the present case, from the year 2012, investments were made for production and releasing of the film namely 'alias Janaki'. It is not the case that the movie was not produced. With the amounts which were allegedly invested by the respondent No.2, movie was made. The said representation of making a movie is correct even according to the de facto complainant.

10. Only for the reason of accused no.1 not honoring the cheques which were given subsequently to the de facto complainant towards repayment, it cannot be said that this petitioner had fraudulent intention of cheating from the inception of transaction. It is not the case that the amounts which are given

were misused by this petitioner. The said amounts which were given by the respondent No.2 were in fact used for the purpose of producing the film. In the said circumstances, when the amounts were entrusted to accused No.1 and also for the reason of there being a bald allegation of assisting accused No.2 in the film produced, after the amounts were paid, either criminal misappropriation or cheating are made out, criminal prosecution cannot be permitted against this petitioner.

11. Accordingly, this Criminal Revision Case is allowed and the proceedings against this petitioner in C.C.No.766 of 2016 on the file of the learned XVII Additional Chief Metropolitan Magistrate, Nampally, are hereby quashed. Consequently, the Order in CrI.M.P.No.1000 of 2021 is hereby set aside.

Miscellaneous Petitions, pending if any, shall stand closed.

K.SURENDER, J

Date: 02.01.2024

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