

**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION No.81 of 2019**

**ORDER:**

1. This Criminal Petition is filed to quash the proceedings against the petitioners/A1 and A2 in C.C.No.1549 of 2018 (Crime No.10 of 2014) on the file of II Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar for the offences under Sections 468 and 471 of IPC of CID PS, Hyderabad.

2. The facts of the case are that the Financial Intelligence Unit, Ministry of Finance, Government of India requested the investigating agency, which is CID, Economic Offences Wing (EOW) to enquire regarding fake letter of credit dated 19.01.2012 for Rs.1,03,00,185/- and fake confirmation and acceptance letter dated 31.01.2012 which were allegedly issued by the Standard Chartered Bank and submitted by the 2<sup>nd</sup> petitioner herein in Andhra Bank, Balanagar Branch, Hyderabad. The said Letter of Credit was discounted by Andhra Bank and credited Rs.1,03,00,185/- to the loan account of the petitioner, who is the Managing Director of M/s.Achyutha Electrical and Industries Private Limited,

Balanagar Branch, Hyderabad. On the basis of the said complaint, investigation was done and charge sheet was filed against the 2<sup>nd</sup> petitioner.

3. Learned Senior Counsel appearing for the petitioners would submit that even according to the investigation done, the Letter of Credit was discounted by the branch on 02.02.2012. However, on 16.07.2012 within five months, the petitioner had taken DD for Rs.1,00,03,185/- and cleared the amount. The said amount was credited into the loan account on 18.07.2012 and the loan account was closed on 28.03.2013. When the entire alleged to have been received on the basis of alleged letter of credit was repaid, the question of prosecuting the petitioner is unwarranted and proceedings have to be quashed.

4. On the other hand learned Public Prosecutor would submit that it is evident from the record that the petitioner had indulged in cheating the Bank by producing fake documents alleged to have been issued by the Standard Chartered Bank.

5. The petitioner produced fake Letter of Credit dated 19.01.2012 for Rs.1,03,00,185/- and acceptance letter dated 31.01.2012 alleged to have been issued by the Standard Chartered Bank. The said Standard Chartered Bank informed the Andhra Bank stating that they have not issued the said documents. However, on 16.07.2012, it is admitted that the 2<sup>nd</sup> petitioner had taken DD for the said amount and credited it to the loan account and thereafter closed the loan account.

6. Complaint was registered on 04.09.2014 nearly 26 months of the 2<sup>nd</sup> petitioner paying the amount covered by the Demand Draft. It is not the case that there was any enquiry or notice issued to the petitioner or any civil or criminal proceedings were initiated before remitting the entire amount of Rs.1,00,03,185/-. The investigation does not disclose as to who created or fabricated the said letter of credit dated 19.01.2012 and fake confirmation and acceptance letter dated 31.01.2012. However, they were submitted by the 2<sup>nd</sup> petitioner with the Andhra Bank authorities and availed loan. Within five months of the discounted amount of

Rs.95,79,417/- that was credited into the loan account, against the letter of credit, an amount of Rs.1,00,03,185/- was deposited, which is not in dispute. No doubt, fabricated documents were produced for availing loan from Andhra Bank. However, even prior to issuance of any notice or any kind of proceedings either civil or criminal being initiated by the Bank, the amount was repaid. The Bank has ratified the transaction done by the 2<sup>nd</sup> petitioner and accepted the amounts without any objection. Further, the Bank has not lodged any complaint or proceeded against the 2<sup>nd</sup> petitioner.

7. After investigation, charge sheet was filed in the year 2017 and now the case, according to the counsel for the petitioners, is coming up for framing of charges.

8. In **Central Bureau of Investigation v. Duncans Agro Industries Limited**<sup>1</sup>, the Hon'ble Supreme Court quashed the FIR when it was found that the Banks had filed suits for recovery of dues and issues have been settled before the Civil

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<sup>1</sup> AIR 1996 SUPREME COURT 2452

Court. Since the offence of cheating is compoundable, though, prima facie offence of cheating was constituted against the accused therein, the Hon'ble Supreme Court intervened to quash the proceedings in the back ground of the settlement before the civil Court in between the Banks and the accused.

9. The present case stands on a better footing. 26 months prior to registration of crime, the amount was repaid and also accepted by the Bank. Further no complaint was lodged by the bank. In the peculiar facts of the present case, this Court deems it appropriate to quash all the proceedings against the petitioners.

10. In the result, the proceedings against the petitioners/A1 & A2 in C.C.No.1549 of 2018 on the file of II Additional Metropolitan Magistrate, Cyberabad at L.B.Nagar, are hereby quashed.

11. Criminal Petition is allowed.

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**K.SURENDER, J**

Date : 05.02.2024  
kvs

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**Dt. 05.02.2024**

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