

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: CrI.P. No.4807 of 2021

PROCEEDING SHEET

Sl. No	DATE	ORDER	Office Note
2.	03.09.2021	<u>CMR, J</u> Learned Additional Public Prosecutor takes notice for the 1st respondent/State and requests time to obtain instructions. Issue notice to the 2nd respondent returnable in four (4) weeks. _____ CMR, J <u>I.A.No.2 of 2021</u> The petitioner is A-1 in Crime No.333 of 2021 of Machavaram Police Station, Vijayawada City, registered for the offences punishable under Sections 420 r/w 34 IPC. On the report lodged by the 2nd respondent that the petitioner has collected Rs.2,65,00,000/- on the promise to register a land in his name and cheated him, the present crime is registered. Learned counsel for the petitioner would submit that when the son of the <i>de facto</i> complainant lodged a report with the police in Hyderabad with the same allegation that the petitioner collected money from him with a promise to register a land in his favour that a case in Crime No.169 of 2020 on the file of CCS, Hyderabad, was registered and in the said case, the <i>de facto</i> complainant was also examined as a witness in	

	the said case and the <i>de facto</i> complainant already stated in the said case that the petitioner herein has collected Rs.2,65,00,000/- from him with the similar promise and the <i>de facto</i> complainant was shown as L.W.2 in the charge sheet that was filed in the said case and as such when the criminal proceedings were already initiated relating to the amount collected by them from the <i>de facto</i> complainant in the said Crime No.169 of 2020 in Hyderabad that there cannot be any F.I.R registered again on the basis of the same allegation. Learned counsel for the petitioner would submit that the <i>de facto</i> complainant lodged another report based on the same allegation herein in Rachavaram Police Station in Krishna District in Andhra Pradesh, by suppressing the earlier case. As per the material produced before this Court by the petitioner, it is evident that the <i>de facto</i> complainant herein was shown as L.W.2 in the charge sheet that was filed in the Court of Metropolitan Magistrate, Hyderabad and on the basis of same allegation, already the petitioner herein is being prosecuted in the said case. Therefore, when criminal proceedings were already initiated on the basis of the said allegation, as rightly contended by the learned counsel for the petitioner, registration of second F.I.R again for the same offence is legally unsustainable. Therefore, the petitioner could make out a <i>prima facie</i> case warranting interference of this Court to examine in the main Criminal Petition whether the legal proceedings initiated against the petitioner under the present F.I.R are legally sustainable or not and whether the said F.I.R is liable to be quashed or	
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		not. Therefore, in the said facts and circumstances of the case, while allowing the investigation to go on, this Court is of the considered view that the petitioner is entitled for protection from arrest in the said case in view of the above discussion. So, there shall be direction to the Investigating Officer not to take any coercive steps against the petitioner, who is A-1, in Crime No.333 of 2021 of Machavaram Police Station, Vijayawada City, including arrest, till the next date of hearing. _____ CMR, J AKN	
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