

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Criminal Petition No.1840 of 2015

Between:

S.Venkata Subbaiah

and another.

....Petitioner/Accused

And

The State of Andhra Pradesh

Rep.by its Public Prosecutor, High Court

and another.

.... Respondents

DATE OF JUDGMENT PRONOUNCED: **20.07.2015**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers
may be allowed to see the judgments? Yes / No
2. Whether the copies of judgment may be
marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes / No

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Petition No.1840 of 2015

ORDER:

In this Petition filed under Section 482 Cr.P.C, the petitioners/Accused Nos. 1 and 2 seek to quash the proceedings in FIR No. 225 of 2014 of Puttur P.S, Chittor District.

- 2) Private complaint filed by the respondent/complainant before

Additional Judicial Magistrate of First Class, Puttur, was forwarded to the Police of Puttur under Section 156(3) Cr.P.C. and a crime was registered and investigated into.

3) The complaint allegations in brief are that the complainant, A.1 and A.2 and four others formed into founder members and started a society under the name and style of “ Seshachala Urban and Rural Educational Society”(hereinafter referred to as Society), Puttur with Regd.No.40/1998 on 20-02-1998 to promote education. The complainant was the President, one Smt P. Anasuya was the Vice President, Accused Nos. 1 and 2 are the Secretary and Treasurer respectively and one S.Hari was the joint secretary and K. Ramaiah and Y. Krishna Reddy were the Executive Members of the said Society. Initially, the Society functioned very smoothly and the complainant actively participated in day to day activities. Though the complainant and P. Anasuya submitted their Resignation Letters due to personal reasons on 21-12-2000, the remaining members have not approved their resignations and hence they continued. A.1 being the Secretary, shall maintain all records, minutes' books and accounts and has to submit annual reports to the Registrar of Societies as per bye-laws of the Society.

4) The further allegations are that while so, A.1 and A.2 with Executive Member—K. Ramaiah, suppressed original minutes book and prepared fake resolutions with fake dates and submitted before the Registrar. After knowing the same, the complainant made enquiries and verified the fake resolutions. He was astonished to know that a fake resolution dated 23-02-1998 was created by the accused and their henchmen as if an executive meeting was held on 23-02-1998 and it was unanimously resolved by the members to apply for a degree college in the name of “Seshachala Degree College” to Andhra Pradesh State Council for Higher Education, Hyderabad. It was further allegedly resolved to appoint A.1 as Correspondent of Seshachala Degree College to carry all the works of the college and eight new members were also allegedly

introduced into the Society. In the said Resolution dated 23-02-1998, it is mentioned as if the complainant along with A.1 and A.2 and other members i.e., Smt P. Anasuya, S. Hari and Sri K. Ramaiah (since died in 2009) were allegedly present at the Executive Meeting and resolved the above Resolutions. The complainant alleged that his signature and the signatures of Smt P. Anasuya and Y. Krishna Reddy were forged by A.1 and A.2 to induct eight new members into the Society for their personal benefit. All these acts were in gross violation of bye-laws of the Society. The complainant neither knew nor attended any such Executive Meeting allegedly held on 23-02-1998 and he never signed on the resolution. It is further alleged that the accused have created subsequent Resolutions between 2004-2010 at one stretch and filed on 05-08-2010. The further allegations are that as per Section 11 of Societies Registration Act, 2001, it is mandatory to maintain Register of Members, but the accused never maintained any such register. Further, they neither mentioned the name of the complainant in any records nor submitted to the Registrar. By misusing the bye-laws, the accused have established some more institutions such as D.Ed, B.Ed and MBA and acquired millions worth of property by misusing the funds of the Society. A.1 was also involved in forgery and illegal activities in respect of some other Society to establish MCA college. The Old Students Association of Seshachala Degree College, Puttur, created website, wherein they stated that the accused swallowed crores of money and exposed the fraud committed by the accused.

5) The complainant and other founder members issued Notice dt. 04-03-2014 to A.1, A.2 and K.L.N.Murthy, one of the newly inducted members. But, A.1 and A.2 did not reply, whereas K.L.N.Murthy gave his reply. Hence, the complaint.

6) As stated supra, Police registered FIR No. 255 of 2014 against A.1 and A.2 for the offences under Sections 465, 468, 469, 471, 406, 417 and 120-B r/w 34 IPC and the investigation is said to be in progress.

Hence, the instant Petition.

7) Heard arguments of Sri C.V.Mohan Reddy, learned Senior Counsel appearing for Sri G. Sriharsh, learned Counsel for Petitioners/accused and Sri P. Sudhakar Reddy, learned counsel for respondent/complainant.

8) Learned Senior Counsel while opposing the FIR sought for quashment mainly on the submission that the complainant, after enormous delay of 16 years from the date of passing of Resolution dt. 23-02-1998, has filed the complaint with an ulterior motive to coerce the accused to succumb to his illegal demands. All through this period, the complainant never objected for the acts of the accused.

9) Learned Senior Counsel submitted that even assuming that the accused have created Resolutions and acted against the interest of the complainant, still those allegations do not specify any criminal offences and these disputes being related to the Society, they are purely civil in nature. Under Section 23 of AP Societies Registration Act, 2001, the aggrieved members can approach the District Court concerned to resolve the disputes. Hence, the Criminal Proceedings are not maintainable.

10) Learned Senior Counsel further submitted that the learned Magistrate has mechanically forwarded the complaint to police for investigation under Section 156(3) Cr.P.C., without applying his mind and which is against the law. To support his contention, he relied upon a decision reported in ***D.K. Pattanaik and another v. Station House Officer, Nallabelly Police Station, Nallabelly Mandal, Warangal District and another***^[1].

11. Per contra, the arguments of Sri P. Sudhakar Reddy, learned counsel for complainant is that the complaint allegations are not false as some of the signatures found on the resolutions were opined by the Truth Lab as forged signatures and further, the old students association of

Seshachala Degree College, Puttur, in its website ie.,“ www.sdcputturosa.host22.com” has clearly mentioned the evil acts of the accused and therefore a thorough investigation is mandatory in this regard. He further submitted that anticipatory bail application filed by the petitioners/accused in CrI.P.No.520 of 2015 before IV Additional Sessions Judge, Tirupathi, was dismissed on 18-03-2015 on the ground that the investigation was in progress and only eight witnesses were examined by then. Learned counsel submitted that the alleged delay in lodging the complaint is not a ground to quash the proceedings in view of the gravity of the offences and the prestige of the institution and future of the students are at stake. He further submitted that the complaint allegations do not pertain to civil dispute alone and on the other hand, they reveal the commission of grave offences like cheating, forgery and breach of trust etc., and hence the criminal prosecution is very much maintainable.

12) In view of the rival arguments, the point that arise for determination is :

“whether there are merits in this petition to allow?

13. **POINT:** Seeking quashment of FIR, the learned Senior Counsel mainly emphasized the point that the complaint is intended to harass the petitioners/accused and that is why the complainant having slumbered over 16 years after the Resolution dt. 23-02-1998, now harping as if some fake resolutions were created behind his back detrimental to the interest of the Society and lodged a false complaint.

14. The contention of respondent/complainant is that the complaint allegations reveal the manipulation of resolutions behind back of the complainant and others by forging their signatures and hence the complaint allegations need a thorough investigation.

15. After hearing both sides and on a perusal of the record, this Court is of the considered view that there are no merits in the petition to quash the FIR. The main grievance of the complainant is that the accused and

some other members hatched a plan and created some fake Resolutions behind the back of the complainant, Smt P.Anasuya and some others detriment to the interest of the Society, which affects the future of the students also. Of course, the complainant is questioning the genuineness of the Resolution dt. 23-02-1998 after about 16 years. However, he is also questioning the subsequent resolutions. It appears that his case is that he came to know the treacherous activities of accused only recently. Be that it may, of the series of offences under which FIR was registered, the offence under Section 468 IPC is punishable with imprisonment which may extend 7 years and therefore under Section 468 Cr.P.C., there is no limitation for taking cognizance of the said offence and other connected offences which all were allegedly committed during relevant period by the accused. Therefore, at this stage, what can be said is that apart from the offences being grave in nature, limitation is not applicable to them. There is a *prima facie* material for the accusation as the material papers submitted by learned counsel for Respondent/complainant shows that experts of the Truth Lab gave an opinion that the alleged signature of K. Ramaiah, member of the Society found on the Resolution dated 23-02-1998 does not belong to him. Therefore, in my considered view, the truth or falsity of the complaint allegations can better be ascertained only after thorough investigation by the Police. Hence, it is not apposite to stifle the investigation at this juncture. So far as the contention that the Magistrate has not applied his mind before referring the complaint to police under Section 156(3) Cr.P.C. is concerned, I am afraid this argument does not carry conviction because the learned Magistrate has clearly mentioned that after hearing the complaint and perusing of the record and documents, he forwarded the complaint to SHO, Puttur, for investigation. So, it cannot be said for a moment that he mechanically forwarded the complaint for investigation. The cited decision thus has no application.

16. In the result, this Criminal Petition is dismissed with a direction to the Investigating Agency to complete the investigation expeditiously not later than three months after receiving the copy of this Order.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 20.07.2015
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