

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION Nos.13640, 13861, 13862 and
13960 of 2013

COMMON ORDER:

Heard both sides.

2. Accused Nos.2, 5, 4 and 3 in Calendar Case No.29 of 2012 on the file of II Additional Judicial Magistrate of First Class, Kadapa, are the quash petitioners in these four Criminal Petitions, respectively. They are the employees of APSSDC Limited, Kadapa; HACA, Hyderabad; A.P. Oil FED, Hyderabad; and A.P.Markfed, Kadapa; respectively. Crime No.66 of 2010 was registered by Kadapa Taluk Police Station, Kadapa, on the report of the 2nd respondent herein, who is Seeds Inspector and Mandal Agricultural Officer, Kadapa, for the offences punishable under Sections 409, 420, 468, 471 r/w 34 I.P.C. The police after investigation filed the final report and that was taken cognizance by the learned Magistrate and numbered as Calendar Case No.29 of 2012. Thereafter, charges were framed and the case was in progress of trial.

3. It is the submission of learned Public Prosecutor that the case is adjourning from time to time for examination of the investigating officer, but the investigating officer is not turning up and the Court is not insisting to secure his presence or proceed further in the case.

4. The petitioners sought for quashing of the

Calendar Case proceedings supra on the ground that even the so-called vigilance report makes out an allegation of movement of stock by fake lorry numbers and that there is embezzlement of quantity of seeds under distribution. A full fledged enquiry was conducted by the Commissioner of Inquiries, who was appointed by the General Administration (Vigilance & Enforcement) Department vide G.O.Rt.No.1049, Agriculture and Cooperation (Vig. I) Department dated 20.09.2012 to inquire into the charges framed against the charged officers under sub-rule (2) of Rule 20 of APCS (CC & A) Rules, 1991, through Presenting Officer, appointed under sub-rule (5) of Rule 20 of APCS (CC & A) Rules, 1991.

5. The operative portion, i.e., the last two pages of the enquiry report, shows that:

"Almost all the farmers, who have named in the vigilance report, were examined during two days' camp at Kadapa, who deposed that they received the seeds in support of receipt of seed, they produced their pattadar passbook on which there was a stamp of the DCMS sale counter showing dated quantity of receipt of distribution of subsidy groundnut seed. Few of the farmers have deposed that they have taken permit, but could not arrange the finance and they have not taken delivery. Some of the farmers have also stated that they have not approached Mandal Agricultural Officer for issuance of sale permit since as either the male member has left the village for employment outside or they are cultivating alternate crop. The vigilance report has also stated that some of the persons

who were not residents of the village have received the seed.

I have inquired with the persons and the persons who have given the statement before the Vigilance Inspector that the persons are not residents of the village, as per the deposition of both the parties, it is evident that the persons are from the neighbouring villages which is in another Mandal but owns agriculture land in the village (they have shown pattadar passbook in support of their landholding) were issued permit for supply of groundnut seed at subsidized rate. The inquiry of the farmers establishes that there was proper distribution of the seed during kharif 2009 in both Pendlimarri and Lakkireddipalli Mandals. I have also examined the connected records like stock and distribution register delivery order / challan. For all the sale points in Kadapa district whereas there is allegation of movement of stock by fake truck numbers. The delivery challans and stock-cum-distribution registers shows that the stocks were received and distributed at the Sale Points. In certain cases, the correct lorry number has been mentioned in the acknowledgment / delivery order. Therefore, in view of this oral and documentary evidence, the allegation of showing fake truck numbers in transportation of seed without actual transportation is not established. The charges against all the Charged Officers are held not proved."

6. It is the submission of the learned counsel for petitioners that the said enquiry report is suffice to quash the entire calendar case proceedings.

7. In fact, in the said enquiry before the

Commissioner of Inquiries based on the Vigilance Report, the criminal law was set in motion in registration of the case, followed by investigation and filing of the final report. The enquiry report, if not made a basis for the police to file a final report, even if received by then, it is left open that they could have been sought for discharge by filing a petition, though, even otherwise, not entitled to bring material for discharge vide decision of the Hon'ble Supreme Court in ***State of Orissa v. Debendranath Padhi***^[1], having the case in progress, undisputedly, coming for the evidence of investigating officer, this is not a fit case, at this stage, before consideration of what is the material before the trial Court, but for giving liberty to file the enquiry report as form part of the record with any written submissions in support of it or adduce in defence evidence. Further, the trial Court is directed to, expeditiously, dispose of the case, preferably within a period of three months from the date of receipt of a copy of this order, and if the investigating officer is not cooperating by appearing before the trial Court, if necessary, by closing the evidence of the prosecution.

8. With the above observations, all these Criminal Petitions are disposed of. Miscellaneous petitions pending, if any, in these criminal petitions, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

08.12.2015

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[\[1\]](#) (2005) 1 SCC 568