

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.15720 of 2013

ORDER:

1. This petition is filed by the petitioner – Accused No.5 under Section 482 Cr.P.C. seeking to quash the proceedings against him in C.C.No.1 of 2011 on the file of the Special Judge for Prevention of Corruption Act for Speedy Trial of Cases of Embezzlement, Criminal Court Complex, Nampally, Hyderabad.

2. The brief facts of the case are as follows:

Sri P.Daya Chary, IAS. Director of Social Welfare Department, Hyderabad, lodged a report with Criminal Investigation Department (CID), Hyderabad basing on the report submitted by the Department of Vigilance and Enforcement, Andhra Pradesh, Hyderabad, stating that certain false claims of scholarships were made on fictitious names of Scheduled Castes and Backward Classes College students in respect of 95 educational institutions (both Private and Government managed Institutions) in twin cities of Hyderabad and Secunderabad, by the Officials of the Office of Deputy Director, Social Welfare, Hyderabad and misappropriated huge Government funds and thereby cheated the Government fraudulently.

3. Heard and perused the material available on record.

4. Learned Counsel for the petitioner submitted that subsequent to the registration of the crime, departmental proceedings were initiated against the petitioner and the said proceedings were dropped subsequently and that the alleged misappropriation of funds took place during the years 1984-1987, whereas the complaint was lodged with regard to the alleged offence in 1994, after lapse of ten years. Thereafter, the investigating agency filed charge sheet in 2011 and the petitioner is arrayed as accused No.5. He further submitted that the petitioner worked as ASWO in Social Welfare Department, Hyderabad

District, during the period 1984 to 1987 and that he is no way connected to the offence as alleged against him. He further submitted that there is an inordinate delay in the proceedings, i.e., the report was given on 21.01.1994, whereas for about twelve (12) years, there was no action on behalf of the prosecution. He further submitted that the departmental proceedings initiated against the petitioner were dropped. He further submitted that the proceedings against the other accused, who was on the same footing, were quashed and therefore, the proceedings against the petitioner may be quashed.

5. Further, the learned Counsel for the petitioner while placing reliance on the Judgment of the Hon'ble Supreme Court in **Vakil Prasad Singh v State of Bihar**^[1] submitted that when the right to speedy trial of the accused is infringed, the accused is entitled for acquittal of the charges framed against him. The relevant portion of the said Judgment is extracted hereunder:

“It is well settled that the right to speedy trial in all criminal prosecution is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the Court has to perform the balancing act upon taking into consideration all the attendant circumstances and determine in each case whether the right to speedy trial has been denied in a given case. Where the court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the court to make an appropriate order as it may deem just and equitable including fixation of time frame for conclusion of trial.”

6. The learned Counsel for the petitioner further submitted that as there was no material available, the departmental proceedings against

the petitioner were dropped. While placing reliance on the judgment of the apex Court in **Lokesh Kumar Jain Vs. State of Rajasthan**^[2], the learned Counsel for the petitioner submitted that when once the petitioner is exonerated for the same charges in the departmental proceedings due to non-availability of the records, the complaint against the petitioner may be quashed, and that having regard to the above said circumstances, this Court quashed the proceedings against one of the accused in the above C.C.

7. Learned Public Prosecutor submitted that the case of the petitioner is on different footing than that of the other accused and the allegations made against the petitioner are serious in nature and the documents relating to the above offence can also be traced.

8. On hearing both sides and also on perusing the Judgments relied on by the learned Counsel for the petitioner and the material available on record, this Court is of the view that when once the departmental proceedings against the petitioner/A.5 were dropped, the pendency of trial against the petitioner/A.5 is nothing but an abuse of process of law. This Court is also of the view that no purpose would be served in proceeding with the trial especially in the absence of any records, as the entire case is based on the material evidence.

9. In the result, the Criminal Petition is allowed and the proceedings against the petitioner in C.C.No.1 of 2011 on the file of the Special Judge for Prevention of Corruption Act for Speedy Trial of Cases of Embezzlement, are hereby quashed. The petitioner/A.5 is acquitted of the offences under Sections 120B, 477-A, 409 and 420 IPC. Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE RAJA ELANGO

10.09.2015

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[\[1\]](#) (2009) 3 SCC 355

[\[2\]](#) (2013) 11 SCC 130