

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P. No.7098 OF 2015

ORDER :

This Criminal Petition is filed by the petitioner/A-5 under Section 482 Cr.P.C seeking to quash the proceedings in F.I.R. No.424 of 2015 on the file of Medipally Police Station, Cyberabad, for the offences punishable under Sections 420 and 406 IPC and Section 7 of Essential Commodities Act, out come of suo-motto case registered by 2nd respondent-Sub-Inspector of Police, Medipally. The 1st respondent so also the 2nd respondent -State are represented by the Public Prosecutor.

2. Heard both sides and perused the material on record.

3. The factual matrix of the case shows that near Venkat Reddy Nagar, Boduppal on 05-07-2015 at about 16 hours, to the farm house of one Mahender Reddy from the civil supplies shop of Venkat Reddy Nagar on information about illegally and clandestinely to sell transporting PDS rice by securing the two mediators Singi Reddy Prabakar Reddy and Vummal Reddy Krishna Reddy residents of Boddupal and Parvathapur, proceeded to the spot and the persons thereat were taken into custody by the SI of police and by individual interrogation, they disclosed i.e. one K.Venugopal (A-1)

that in the civil supplies shop No.660 of Sarrornagar belongs to his brother Ranjith Kumar running by him and their father Satyanarayana (A-7) is running another Civil Supplies shop and he besides Nagabushanam (A-2), Shankar (A-4), Kishan (A-5) Akbar (A-3), Yadagiri (A-6) all from the said civil Supplies shops to conceal at the poultry farm godown as per the earlier *modus operandi* and in the van bearing No.TS 08 UB 1280 driven by Maruthi Reddy (A-8) shifted the PDS rice of 70 bags for clandestine sale to have monetary gain. That similarly, A-2 claimed running civil supply shop standing in the name of his wife Kalpana through other accused persons A-1,

A-3 to 6 in said Maruthi Van driven by A-8 shifted 67 bags of PDS rice to the poultry farm for monetary gain by clandestine sale and shown the 69 bags therein in the godown which were already shifted and he was dealing through his mobile phone for sale clandestinely and said phone was seized in the presence of mediators. The other person A-3 made similar disclosure that he is running civil supply shop of 333 at Saroornagar and with the assistance of other accused supra for clandestine dealing, he shifted 65 bags into the Godown and shown the same, that was also seized and also disclosed about his dealing over cell phone for clandestine sale that was also seized. The other person i.e.A-4 also made similar disclosure of his running, ownership standing in the name

of Vimala Bai at Lingoijiguda bearing No.374 and from there, he shifted 58 bags to the godown and shown the said 58 bags that was also seized and from his disclosure about his dealing with clandestinely over i-phone that was also seized. The other person A-5 made disclosure that at SBH colony of L.B.Nagar he is running Civil Supplies shop No.168 in his name and from there shifted to the poultry farm godown 59 bags in the van of A-8 for clandestine dealing and he was dealing clandestinely through his Samsung cell phone, that were also seized. Among other persons K.Yadagiri made disclosure that from Nacharam, Karthikeya Nagar he procured 22 bags of rice and with the help of other accused persons i.e. A-1 to A-6 and in the van of A-8 shifted to the poultry farm godown and shown the same that was also seized. The van driver A-8 also in his disclosure corroborated. From their versions independently total rice of 383 bags and the cell phones were seized by affixing slips in the presence of mediators. It is basing on said panchanama, above crime was registered against total eight persons.

4. The A-5 among them filed the quash petition with contentions that he is not at all connected with the alleged crime and he is falsely implicated and the so-called 383 rice bags found at the poultry farm of Manohar Reddy, even then he was not made as co-accused much less to substantiate the allegation of some of the total rice therein also found from the Civil Supply shop of petitioner/A-5 as

per the alleged disclosure. It is also contended that when inspecting the records of the ration shops, particularly of the petitioner, the stock register and the supply register with the stock on hand tallies with no discrepancy and LDEI of Civil Supplies Department subsequently on 06-07-2015 inspected the shop No.168 of petitioner (A-5) situated at SBH colony, L.B.Nagar, Saroornagar and prepared a report which demonstrates no violation of stocks and even earlier, has no any lapses on his part in running the Civil Supply shop and there are no ingredients of any of the offences made out under Sections 420, 406 IPC or Section 7 of Essential Commodities Act and he was already enlarged on bail and thereby the FIR proceedings are liable to be quashed.

5. Learned counsel for the petitioner reiterated the above contentions by placing reliance upon the expressions of **Lokesh Kumar Jain v. State of Rajasthan**^[1] exoneration in departmental enquiry on the charges identical as those in criminal case and in the CAG report to find out financial irregularity as probable misappropriation by appellant and their carbon copies which could have shown who received the money, not being available to correlate besides delay of 13 years in investigation and the police officers closure report shows lack of evidence, despite it the Magistrate directing under Section 156(3) Cr.P.C. for investigation

from assurance of *de facto* complainant to provide evidence with no any reason for the earlier silence without providing during earlier investigation, charge under Section 409 IPC held is a fit case for quashing. The other decision is ***Gyan Singh v. State of Punjab and another***^[2]. Wherein the Supreme Court held that decisive criterion to exercise discretion to quash the criminal proceedings is a balancing of social impact of crime in question *vis-à-vis* its individual impact and there are guidelines given including the limitations on exercise of power, despite bar under Section 320 Cr.P.C. to invoke Section 482 Cr.P.C. by referring the earlier expressions of ***B.S.Joshi v. State of Harayana***^[3] and ***Nikil Merchant v. CBI***^[4] and ***Manoj Sharma v. State***^[5]. There, it was observed that where parties settle their disputes, proceedings can be quashed or not depends on facts and circumstances of each case, unless the crimes are heinous and series of mental depravity, murder, rape, Dacoity etc., or under Special Acts like Prevention of Corruption Act or offences committed by public servants while working as such, which are not private in nature and having a serious impact on society.

The other decision placed reliance on ***Priyanka Srivastava v. State of U.P.***^[6], where while quashing the proceedings laid by borrower of monies from the bank who maintained series of criminal complaints against bank

officials and the Courts blindly referring to police directing to investigate all complaints under Section 156 Cr.P.C. is deprecated by laying down guidelines including affidavits are required to be filed in support of private complaints and judicial application of mind is required while referring for police investigation in private complaints filed before Court, under Section 156 Cr.P.C. even to direct for registering F.I.R. under Section 154 Cr.P.C. and there must be also an order supported by reasons for directing to register crime and to investigate.

6. The other decision placed reliance is ***Narottam Singh Tomer v. State of M.P.***^[7]. Where F.I.R. registered for the offences punishable under Sections 3/7 of Essential Commodities Act, 1955 (for short “the Act”) quashed on the facts that the accused/petitioner was running fair-price shop allotted by the Government limb and in the course of inspection found clandestinely carrying 100 liters of Kerosene oil in two cans and on interrogation, there was a disclosure of same entrusted by the dealer to the accused persons for illegal sale, consequently seized and on investigation filed charge sheet before the Court and cognizance taken and summoned that was impugned by the quash proceedings. It was observed that a reading of Section 7 of the Act, which deals with penalties for any contravention of any Order under Section 3 of the Act,

which shall be punishable with different categories of punishments for different contraventions and it feels there is no violation of any Order regarding the essential commodity to apply the provisions and thereby, referring to **Bajanlal** of 1992 Supreme Court guidelines saying for nothing to show prima facie of any Order under Section 3 of the Act violated to make out any offence under Section 7 of the Act and as per guideline-1 of **Bajanlal** the material no way makes out a case and thus quashed the proceedings of the crime.

7. Whereas, it is the submission of the learned Public Prosecutor for respondents that none of the decisions are applicable to the facts and there are disclosure of each of the accused of shifting the PDS rice to the poultry farm godown where the stock was found 383 bags belongs to different accused for clandestine dealing that no way bars the prosecution of the accused persons i.e. A-1 to A-8 that too, the crime is under investigation and thus there are no grounds to quash the F.I.R for not a case of rice is not a PDS rice and that too it is premature to decide the value of confessions and as to admissible or not in evidence under Sections 25/27 read with sections 30 and 133 of the Evidence Act.

8. Heard at length in support of the rival contentions referred supra with reference to law and fact and perused the material on record.

9. The Law is well settled that, even a disclosure of any fact of any of the accused or co-accused disclosing a cognizable offence, to register the crime or to investigate the allegations thereunder does not a bar. The evidentiary value of any of the disclosures to the extent admissible under Section 27 of Evidence Act as an exception to Section 25 of Evidence Act of the respective accused persons and the co-accused persons in relation to a fact discovered from that disclosure is a matter to be decided, as to the admissibility and relevancy also, during trial and so far as investigation is concerned, the disclosures even to the extent covered by Section 25 of Evidence Act not a bar for further investigation therefrom. A perusal of the seizure panchanama of the cell phones as well as the respective stock total 383 bags from the respective disclosures made by respective accused showing their complicity as well as others, once requires to be investigated for clandestine dealing of PDS rice meant for distribution to card holders and not to shift for clandestine dealing by any of the dealers or any third parties in connivance with them for their wrongful gain. There is thus nothing at this stage to quash the proceedings that too at the investigation stage of the crime.

10. Having regard to the above and for the fact that the petitioner/accused are already enlarged on bail, it

requires the investigation shall go on, for this Court, there is nothing to invoke Section 482 Cr.P.C. to quash F.I.R. proceedings but for continuation of the crime, which is neither abuse of process nor shown to be stopped to subserve the ends of justice.

11. Therefore, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

11-09-2015

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[\[1\]](#) (2013) 11 Supreme Court Cases 130

[\[2\]](#) (2012) 10 Supreme Court Cases 303

[\[3\]](#) (2003) 4 SCC 675

[\[4\]](#) (2008) 9 SCC 677

[\[5\]](#) (2008) 16 SCC 1

[\[6\]](#) Laws (SC)-2015-3-78

[\[7\]](#) 2013 Law Suit (MP) 2200