

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2643 OF 2015

ORDER:

The present criminal revision case is filed by the petitioner challenging the order, dated 23.10.2015, passed in CrI.M.P.No.2430 of 2015 in C.C.No.87 of 2010 by the Court of the Judicial Magistrate of First Class, Kodad, whereby the Court below dismissed the petition filed by the petitioner seeking discharge.

Learned counsel for the petitioner submits that the charge sheet is filed without any material evidence to attract an offence under Section 409 IPC and that even as per the charge sheet, the petitioner herein has remitted the undisbursed amount of Rs.1,000/- in State Bank of Hyderabad, Kodad, on 12.02.2000, much before filing the complaint. He further submits that in a departmental enquiry conducted by the District Collector, Nalgonda, the petitioner was found not to be misappropriated the pension amount.

This Court perused the order passed by the Court below and the proceedings of the District Collector.

The District Collector after a detailed enquiry found that the petitioner has not misappropriated any amounts and issued proceedings, dated 06.06.2013. The relevant portion is extracted as under.

In view of the above, as per the report of the Enquiry Officer, Sri R.Nageswara Rao, Ex-Panchayat Secretary, Gram Panchayat, Akupamula of Munagala Mandal now Thungathurthy of Thungathurthy Mandal has not misappropriated the pension amount of Rs.800/-, but there is a delay in remitting the pension amount of Rs.800/- and for which, he is awarded a punishment of withholding of one Annual Grade Increment without cumulative effect and the suspension period from 10.06.2009 to 17.12.2010 is hereby treated as on leave.

This Court is of the view that it is evident from the record that since the persons, who claims to be aggrieved, refused to receive the pension on the ground that the pension is not given to them as per their request and also they demanded to pay the

pension arrears from the date of application and as such, the petitioner could not pay the pension amounts. The enquiry officer, in the enquiry report also stated that there is a delay in returning the said amounts, which are not disbursed. However, it cannot be treated that the petitioner has committed an offence of misappropriation of meager amount of Rs.97,800/-, especially when the petitioner has deposited the said amount much prior to filing of complaint. It clearly establishes that the petitioner is not having any intention of misappropriating the amounts and as such, the petitioner is entitled for discharge in the case.

With the above observations, the Criminal Revision Case is allowed and the petitioner is discharged in C.C.No.87 of 2010 on the file of the Court of the Judicial Magistrate of First Class, Kodad, Nalgonda District. Consequently, the miscellaneous petitions filed in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

16.11.2015

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