

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

CRIMINAL REVISION CASE NO. 2194 OF 2012

Between:

Telekicharla Satya Venkata Diwakar

.. Petitioner

and

State of Andhra Pradesh
Rep. by its Special Public Prosecutor
C.B.I
High Court of A.P, Hyderabad

.. Respondent

DATE OF ORDER PRONOUNCED: 21.07.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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| 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 Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE M.S.K. JAISWAL

CRIMINAL REVISION CASE NO. 2194 OF 2012

Order:

This Criminal Revision Case is filed by the petitioner/A3, under Section 397 read with 401 Cr.P.C, questioning the correctness of the order of learned I Additional Special Judge for CBI cases, Hyderabad, in CrI.M.P.No.133/2012 in C.C.No.3/2008 dated 19.10.2012.

2. The facts, in brief, are that the petitioner/A3 filed a petition under Section 239 Cr.P.C. for discharging him for the alleged offences punishable under Sections 120B, 420, 468 and 471 IPC and under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. By impugned order, the learned trial Judge held that the material placed on record is sufficient for framing the charges and there are no grounds to discharge the petitioner/A3 and consequently dismissed the petition. Hence, the revision.

3. The contention of the learned counsel for petitioner/A3 is that a bare perusal of the charge sheet does not disclose that the petitioner/A3 has committed any act whereby he is said to have committed the acts of cheating as alleged by the Investigating Agency. He further contended that the material placed on record does not, *prima facie*, show the involvement of A3, hence, the learned trial Judge ought to have discharged the petitioner, but erroneously dismissed the petition.

4. On the other hand, the learned Public Prosecutor for CBI submits that if the entire charge sheet and the material produced along with that is perused, *prima facie*, it is made out that there was a deep-seated conspiracy in between all the accused including A3 and the matter of conspiracy can be deciphered only during the course of trial whereby it can be brought on record as to what is the specific role played by the accused. The learned Public Prosecutor further submits that there is a specific allegation against the petitioner/A3 facilitating the acts of all the accused in cheating the bank in obtaining loan based on false, fabricated and fictitious documents. The learned

Special Judge has rightly considered the material on record and dismissed the petition, which do not warrant any interference.

5. The non-petitioners/A1 and A2 are the bank officials of the Indian Overseas Bank, non-petitioners/A4 to A7 are all connected with the company viz., M/s. Sneha Creations Private Limited, A3 is the consultant, whereas A8 and A9 are said to be associated with Master Equipments. The case, in brief, is that the loan was applied for by Sneha Creations Private Limited to the tune of Rs.48.83 lakhs with additional credit facilities of Rs.20 lakhs, which was sanctioned based on the alleged false and fabricated documents and also lapsed and faked LIC documents. The allegation is that the accused persons have created all the documents with dishonest intention of obtaining the loan by cheating the bank and the non-petitioners/A1 and A2 have also sanctioned the loan to a tune of more than Rs.69 lakhs.

6. Insofar as A3 is concerned, the specific allegation is that he has made A8 to open an account with the Bank of India, Malakpet Branch, Hyderabad and he received Rs.5 lakhs from A7 company through a cheque from the account of Master Equipments, which he arranged through the account of A8. It is also on record that the petitioner/A3 arranged a demand draft in favour of A8 from the account of Master Equipments and it is also on record that during the course of investigation there is a confession statement from A3 whereunder he stated that he wrote almost all the cheques of Master Equipments, one proforma invoice and some cheques of Sneha Creations Private Limited and also filled certain details of the borrowers in the documents. It is also on record that there is also an admission from the mouth of A3 to the effect that he asked A9 to arrange for the surrender value certificates to the borrowers. These alleged acts of A3 and A9 were intended to get benefit of about Rs.5.25 lakhs. Insofar as the evidence is concerned, it is the case of prosecution that there are witnesses who speak about the complicity of the petitioner. For

instance, it is in the evidence of LWs.3, 5, 12 and 16 and also there is a report of the Government Examiner of Questioned Documents, which show the complicity of A3.

7. At this stage, when the matter is at the stage of framing charges a roving enquiry into the allegations cannot be made. Suffice it to see whether the material on record make out a *prima facie* case and the trial shall be proceeded against the accused for framing of charges. The truthfulness or otherwise of the allegations can be established only during the course of trial. The learned trial Judge has considered all the aspects in proper perspective and has refused to accede to the request of A3 to discharge him. In the facts and circumstances of the case, I see no merits in the revision and hence, the same is liable to be dismissed.

8. In the result, the Criminal Revision Case is dismissed and the learned trial Judge is directed to proceed with the trial of the case, however, without insisting for the presence of the petitioner/A3 for each and every adjournment, unless the same is necessary for any specific purpose.

As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J

Date: 21.07.2015
MVA

HON'BLE SRI JUSTICE M.S.K. JAISWAL

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