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

CRIMINAL REVISION CASE NO. 386 OF 2013

Between:

Vamaraju Nagaraju

.. 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:

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

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. 386 OF 2013

Order:

This Criminal Revision Case is filed by the petitioner/A9, 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 Crl.M.P.No.134/2012 in C.C.No.3/2008 dated 19.10.2012.

2. The facts, in brief, are that the petitioner/A9 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/A9 and consequently dismissed the petition. Hence, the revision.

3. The contention of the learned counsel for petitioner/A9 is that a bare perusal of the charge sheet does not disclose that the petitioner/A9 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 A9, 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 A9 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/A9 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. The specific allegation against A9 is that he has received a sum of Rs.1,49,000/- from A8 by submitting false invoices.

6. Insofar as the petitioner/A9 is concerned, the specific allegations are that he is a close associate of A3 and has introduced A4 and A5 to A3, and A9 had prepared Project Report for A7 company on the advice of A3, and A3 got opened a bank account in the name of Master Equipment with his associate A8 and diversified the loan amount sanctioned to A7 company by Indian Overseas Bank, Main Branch, Hyderabad. It is also on record that during the course of investigation there is a confession statement from A9 whereunder he stated that he wrote four receipts of Master Equipments and five sheets out of six sheets of proforma invoice of Master Equipments with the information furnished by A3. Insofar as the evidence is concerned, it is the case of prosecution that there is a witness of LW3, whose evidence speaks about the complicity of A9 and also there is a report of the Government Examiner of Questioned Documents, which shows the complicity of A9.

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 A9 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/A9 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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