

*** THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

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+ CRIMINAL PETITION No. 14053 of 2013

% Dated 03.06.2015

Valaboju Padmavathi, W/o Madhu

Aged about 50 years, occ: Government Service

R/o H.NO.11-8-136, Lenin Nagar

Khammam, Khammam District Petitioner

Vs.

\$ 1. The State of A.P

Through by SHO, PS Thallada

Khammam District, rep by

Public Prosecutor, High Court of A.P

Hyderabad

2. MVR Krishnam Raju

Head Master, ZPSS Vennavalli of

Kalluru Mandal, Chief Superintendent SSC

Public Examinations, Thallada Center

R/o Pinapaka of Wyras Mandal Respondents

! Counsel for the petitioner : Sri Parsa Ananth Nageswar Rao

^ Counsel for the respondents : Sri Public Prosecutor (T)

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? Cases referred

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CRIMINAL PETITION No.14053 OF 2013

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ORDER:

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The petitioner herein sought for quashing the proceedings initiated in C.C.No.27 of 2013 on the file of the Judicial Magistrate of First Class, Madhira Khammam District, where she is arrayed as Accused No.2.

The petitioner was working as a teacher, Zilla Parishad Secondary School at Tallada in Khammam District. On 29.03.2012 at Zilla Parishad High School Exam Centre, Tallada, where Secondary School Certificate (S.S.C) public examinations are conducted, in English subject Paper-I, the petitioner was posted to Room No.6 as invigilator where several students were taking the same. The exam paper comprises of two parts, Part-A and Part-B. Part-A was distributed to the students at 09:30 A.M, while Part-B was distributed at about 09:45 AM. At about 11:45 AM, one Mr. Kothapalli Pavan Kalyan with Hall Ticket No.1230121798 asked the petitioner herein, the invigilator to give him Part-B paper. Since, no spare copies were available, the petitioner could not give another copy to the said student Mr. Pavan Kalyan. On the other hand, the petitioner insisted that Part-B question paper which is already distributed must be traced out. It appears, she has also promptly informed

about the mischief to Chief Superintendent of the exam centre. The investigation revealed that clandestinely question paper Part-B has been removed from the exam hall and it was passed on to Accused No.1 for eventually facilitating in malpractice. However, the police after investigation, filed the charge-sheet. While the investigation appears to have helped the police to detect A-1, who is willing to commit the malpractice by answering the questions of Part-B for and on behalf of some other student. However, the only statement of allegation made against the petitioner herein reads as under:

“.....The accused A-2 was deputed to Room No.6 as invigilator of the examination for that day but the A-2 has neglected in invigilation duty and gave scope to malpractice in the examination.”

The petitioner (A-2) along with A-1 is sought to be proceeded against under Section 8 of the Andhra Pradesh Public Examination (Prevention of Malpractice and Unfair Means) Act, 1997 ('Act' for short).

Section 5 of the Act reads as under:

“Prevention of leakage by person entrusted with examination works:

No person who is entrusted with any work pertaining to a public examination shall, except where he is permitted by virtue of his duties so to do, directly or indirectly divulge or cause to be divulged or make known to any other person any information or part thereof which has come to his knowledge by virtue of the work being so entrusted to him.”

It is clear, from the above that any person who is entrusted with any work pertaining to a public examination shall directly or indirectly divulge or cause to be divulged or make known to any other person any information or part thereof which has come to his knowledge by virtue of the work being so entrusted to him. Section 8 has spelt out that whoever prevents or attempts or conspires to contravene or abets the contravention of the provisions of Section 3 or Section 4 or Section 5 or Section 6 or Section 7-A shall be punishable with imprisonment for a term which shall not be less than three years but which may extend upto seven years and with fine which shall

not be less than rupees five thousand, but which may extend upto one lakh.

The allegation leveled against the petitioner herein was that she was negligent in performing the invigilation duties. It is not the case of the prosecution that the petitioner has either directly or indirectly divulged or made known any information relating to the public examination, which has come to her knowledge. Mere negligence in performing invigilation duties, does not attract the offence set-forth in the Act. Therefore, in absence of any allegation that the petitioner herein has committed the offence set out in Section 5 of the Act, she cannot be subjected to prosecution for which the penalty has been provided under Section 8 of the Act. Since, the allegations contained in the charge-sheet against the petitioner herein do not disclose commission of offence spelt out in Section 5 of the Act, the petitioner cannot be proceeded against. Hence, the charge-sheet to the extent of the petitioner herein is quashed.

Criminal petition is allowed. Miscellaneous applications if any shall also stand disposed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

03.06.2015

Note: LR copy to be marked

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