

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.7038 of 2015

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner-A.1 to quash the proceedings in Cr.No.48 of 2015 of Dabeerpura Police Station, Hyderabad, for the offences punishable under Sections 420,468,471 and 109 of I.P.C. on the report of the 2nd respondent-(Quli Qutub Shah Urban Development Authority(for short, 'the QQSUDA')).

2. Heard the learned counsel for the petitioner/A.1 so also the 1st respondent-state and this Court by order dated 22.07.2015 while ordering interim stay of arrest of petitioner/A.1 for four weeks ordered personal service of notice to the 2nd respondent and the net tracking India post website record of the track events of the registered post letter from 31.07.2015 to 03.08.2015 shows it was delivered on 03.08.2015 and even there is proof of service of notice to the 2nd respondent, failed to attend, hence taken as heard if not, to adopt the argument of the learned Public Prosecutor for 2nd respondent and perused the material on record.

3. The report of the 2nd respondent which is basis of registering FIR dated 24.04.2015 reads that there are illegal appointments and promotions on fake certificates by the QQSUDA, who were placed under suspension and to take criminal action against them. The three accused named therein including the petitioner as A.1 Mahammad MQ Baig Draughtsman, Grade III Under suspension if any, shows the offence committed is by submission of fake diploma certificate from Vinayaka Missions University, Salem, Tamilanadu, to get promotion to the post of Assistant Engineer. The report further reads the action to be taken from the report as per the recommendation of the principal Secretary to Government, M.A. & U.D. Department and Director General(V&E) & Ex-Officio Prl.Secretary to Government, General Administration Department of Government of Telangana, Secretariat, Hyderabad. The police therefrom registered the crime supra and started investigation.

4. The quash petition averments to quash the said crime proceedings are that the ingredients are not constituting the offence under Section 109 IPC or any other offence so far as the petitioner-A.1 as he neither deceived nor induced anyone in the

department to get promotion as Assistant Engineer and committed no acts of dishonesty and it is he that was deceived by A.2 and he did not receive any wrongful gain much less any of his acts caused wrongful loss to the Government by so called fake certificate much less any forgery or using as genuine a forged one to cheat to attract, that having known through the university of the document is fake, he never tried either fraudulently or dishonestly as genuine to get promotion and he along with other employees gave representation to the authorities to take action on fake certificate holders who were promoted and from the so called letter of the Secretary, QQSUDA, there is no connection of the petitioner to the offence mentioned and thereby the proceedings are liable to be quashed. The petitioner placed reliance upon his letter dated 06.11.2007 addressed to the Directorate of Distance Education, VMRF, Deemed University, Salem, Tamilnadu where he mentioned that he passed two years draughtsman Civil (ITI) National Trade Certificate(NTC) in July, 1982 from H.E.H. the Nizam and Alladin Technical Institute, Bogulkunta, Hyderabad, through Special Employment Scheme & passed the 2 years vocational Intermediate in Roads & Buildings Construction Technician Course in October, 1984 from Government Junior College, Old Malakpet and also passed the National Apprenticeship Certificate(NAC) in the trade of Draughtsman Civil in April, 1990 from Related Instruction Classes Centre(RICC), Mallepally, Hyderabad as a private candidate and also appeared the L.C.E. Final year examination in the year, 1997 through (Old Scheme) 4 years part time equivalent, as a departmental candidate from Jawaharlal Nehru, Government Polytechnic, Ramanthapur, Ranga Reddy District, Hyderabad. He further stated that he passed Class'A' and 'C' equivalent subjects in 4 year part time and failed in Class'B'(3 theory subjects) i.e. Hydraulics, Strength of Materials & Surveying-II. So the Secretary State Board of Technical and Training A.P. wound up the old scheme and not conducting the examinations from 1998 and in the meanwhile, he got admission in 2nd year of three years diploma course in Civil Engineering at Sri Samgameshwara Government Polytechnic, Ranjhole, Zaheerabad, Medak district as he is in service working as Draughtsman, Grade-III, he cannot continue the same due to financial problem, again he cancelled two years loss of pay leave and joined the service and he finally approached the said University for discontinued candidates in Decemer,2006/January,2007 in one attempt through Nalanda Academy, Hyderabad, Andhra Pradesh and thereby requested to verify the provisional certificate dated 28.02.2007 as early as possible so as to submit the same in his office for further process in that regard. He received

from VMRF, Salem from its Director letter dated 19.11.2007 that on verification it is found that the University has not issued marks sheet as provisional certificate and it is a fake one. He addressed letter dated 25.10.2010 to the administrator of QQSUDA stating that with reference to his earlier application dated 18.08.2010 and representation of the local M.L.A. Charminar on 15.09.2010 to initiate appropriate and just action in regard to the allegations of gradation for thorough investigation in relation to all fake certificate holders who are working independently in the authority with the help of superiors to take action in the interest of justice. There is also a representation by 8 persons including him as 2nd person, dated 20.11.2010 to the Secretary, QQSUDA stating that time and again it is bringing to the notice of the administration about the consideration of promotions on the fake certificates and inaction even on a proof from the concerned University which inaction is holding culprits to get further promotions one or the other way and crushed the right of the genuine employees and still same employees are trying to get promotions by submitting certificates from unrecognized so called out of State Universities and the establishment wing proved its loyalty towards fake certificate holders in verification even after detection of fake in their getting success. Hence, requested to take all precautionary measures to ensure genuineness of qualification certificate, seniority and eligibility etc., according to Rules and Regulations before considering any promotion. Further, they are ready to discuss personally in the matter more clearly for sake of fair administration and to avoid complications. Further the local M.L.A. Yakutpura constituency, dated 09.11.2010 addressed a letter to the Administrator, QQSUDA stating that the A.1 herein is Special Grade Draughtsman, Grade-III is working in Engineering Wing, QQSUDA since 1993 and is seniormost employee in the cadre of Spl. Grade Draughtsman, Grade-III, and having extra technical qualifications of two years I.T.I. and other qualifications and hardworking person to consider for promotion to the post of Draughtsman, Grade-I, which is vacant. The petitioner-A.1 also addressed a letter dated 10.02.2014 to the Regional Vigilance & Enforcement Officer, Hyderabad City-II, Hyderabad, pointing out the illegal appointments on fake certificates in QQSUDA and to take minimum necessary action against the concerned establishment as well as the fake ones who are illegally permitted other than seniors and genuine ones and to do justice.

5. In this background coming to the F.I.R. contents the offence committed by the petitioner/A.1 in the cadre of Draughtsman, Grade III of QQSUDA is that he

submitted fake diploma certificate from Vinayaka Missions University, Salem, Tamilnadu and got promotion to the cadre of Assistant Engineer. There is no date and time when he submitted and there is no any enclosure to the FIR and 2nd respondent even not furnished any particulars in opposing the quash proceedings much less anything regarding the investigation of the Station House Officer. It is as per the petitioner's claim, he did not submit any certificate however as per the F.I.R. contents he got promotion as Assistant Engineer by submitted fake diploma certificate. The enclosures clearly show the so called diploma certificate of him from his letter dated 06.11.2007 from the reply of Vinayaka Missions University dated 19.11.2007 is a fake one. Had he been submitted and got promotion, it is knowingly to use as genuine a fake and forged document, and in making use of to get promotion which is nothing but cheating the entity for wrongful gain for causing wrongful loss. However, the averments show he did not submit any such certificate and got promotion therein, for which he is entitled to place material before the investigating officer for investigation as the case requires investigation, in this regard so far as against his, leave about the others, but for to say is not liable to be arrested pending investigation but for to appear for the investigation purpose of the crime supra.

6. Accordingly, the Criminal Petition is disposed of. The interim order, not to arrest the petitioner but investigation shall go on, is modified to the extent the petitioner has to appear before the investigating officer concerned in Cr.No.48 of 2015 of Dabeerpura Police Station as and when required for the purpose of investigation and the petitioner is entitled to submit any material in support of his so called innocence to form part of the investigation material by investigating officer for final report. Further remedies are left open to the petitioner/A.1 in the event of police filing final report and cognizance taken by Court concerned.

7. Consequently, miscellaneous petitions, if any pending, in this Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:13.10.2015

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