

HON'BLE SMT JUSTICE ANIS

CRIMINAL REVISION CASE No.104 OF 2010

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ORDER:

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This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner herein challenging the order dated 29.10.2009, passed by the Additional Judicial Magistrate of First Class, Kavali, in CrI.M.P. No.3464 of 2008 in C.C. No.531 of 2007.

2. The case of the petitioner is that he filed a petition under Section 239 of Cr.P.C. seeking the Court to discharge the petitioner stating that there is no material on record to conduct the trial against the accused as the accused handed over the records and furniture of the society to the Chief Executive Officer. Without considering the petitioner's case, the said petition was dismissed on the ground that there is *prima facie* case against the petitioner/accused. Aggrieved by the order of the trial Court, the accused filed the present revision.

3. The learned counsel for the petitioner argued that the charge sheet is filed beyond the limitation prescribed under Section 468 of Cr.P.C. as the cause of action was arise on 01.08.2005 and the petitioner handed over the charge on 10.08.2005. The offence punishable under Section 79(2) of the A.P. Cooperative Societies Act, 1964 (for short, 'the Act') is with imprisonment for a term which may extend to six months and with fine which may extend to Rs.500/-. In view of the Section 468 of Cr.P.C, the Investigating Officer should have filed the complaint within one year from the date 01.08.2005 or even from the date 10.08.2005, but the Investigating Officer filed the charge sheet on 31.07.2007 i.e., after two years. It is also argued by the learned counsel for the petitioner that the trial Court, without considering all these aspects, dismissed the CrI.M.P. No.3464 of 2008 and prayed the Court to set aside the order and discharge the petitioner from the case.

4. The learned Public Prosecutor fairly conceded that the charge sheet is filed

after two years from the date of cause of action and also from the date of handing over the charge.

5. Now, the point for determination is --

Whether the revision petitioner is entitled to set aside the order passed in CrI.M.P.No.3464 of 2008 in C.C.No.531 of 2007 dated 29.10.2009?

6. **POINT:** A perusal of the record shows that the Sub-Inspector of Police, Jaladanki Police Station, filed charge sheet under Section 79(1)(e) of the Act against the petitioner herein basing on the report given by one Sri D.Sreerama Murthy, Manager (Legal), Nellore District Co-operative Central Bank Limited, Nellore after examining seven witnesses. A perusal of the charge sheet shows that the Investigating Officer filed the said charge sheet on 31.07.2007 for the offence punishable under Section 79(1)(e) of the Act. The punishment prescribed under Section 79(2) of the Act is with imprisonment for a term which may extend to six months and with fine which may extend to Rs.500/-. The learned counsel for the petitioner contended that under Section 468 of Cr.P.C. the limitation for filing the charge sheet is within one year. A perusal of the record shows that the cause of action arise on 01.08.2005 i.e., the proceedings of the Divisional Co-operative Officer, Kavali in No.665/2005 dated 01.08.2005 wherein one Sri G.Tirupal Reddy was made as the Chief Executive of the Jaladanki P.A.C.S and on 10.08.2005 as per the proceedings in No.665/2005 dated 01.08.2005 the accused handed over the records and furniture to the Chief Executive Officer of Jaladanki P.A.C.S, by name Sri Gadi Tirupal Reddy. A perusal of the copy of the said record shows that the petitioner handed over the records and furniture of the society to the said Chief Executive Officer of the Jaladanki P.A.C.S on 10.08.2005. As per Section 468 of Cr.P.C. the Investigating Officer ought to have filed the charge sheet within one year i.e., on 01.08.2006 or 09.08.2006, but failed to file the charge sheet on those dates and filed on 31.07.2007 i.e., after completing about two years. In view of the Section 468 of Cr.P.C., the charge sheet filed by the Investigating Officer is beyond limitation. Therefore, the petitioner is entitled for discharge from the proceedings in C.C. No.531 of 2007.

7. In the result, the Criminal Revision Case is allowed.

Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

_____ **ANIS, J**

Date: 06.04.2015

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