

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

CRIMINAL PETITION No.1336 of 2011

Between:

Putta Ramamohan

..... PETITIONER

AND

The State represented by S.H.O.,Lakkireddypalli
Police Station, Public Prosecutor, High Court,
Hyderabad

.....RESPONDENT

DATE OF JUDGMENT PRONOUNCED: **24.07.2015**

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 |
| 2. | Whether Their Ladyship/Lordship wishes to see the fair copy of the Judgment? | Yes/No |

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

CRL.P.No.1336 of 2011

ORDER:

The petitioner-accused seeks to quash the proceedings initiated against him in C.C.No.44 of 1999 on the file of the Judicial Magistrate of First Class, Lakkireddypalli, YSR (Kadapa) District, registered for the offence punishable under Section 409 I.P.C.

On a complaint given by the defacto complainant, who was working as Assistant Director of Sericulture, Rayachoti, a case in Crime No.48 of 1998 was registered against the petitioner-accused for the offence punishable under Section 409 I.P.C. by the Sub Inspector of Police, Lakkireddipalli Police Station. Eventually, after completion of investigation, a charge sheet was laid under the aforesaid offence against the petitioner in the Court of the Judicial Magistrate of First Class, Lakkireddipalli and the same was numbered as C.C.No.44 of 1999.

The allegations, in brief, levelled against the petitioner, who was working as in charge Assistant Inspector of Sericulture of D.P.A.P. Grainage at Lakkireddipalli, are that during the years 1996-1998, he sold CBDFLS on credit basis

to a tune of Rs.2,02,184/- and on being issued a memo, he remitted an amount of Rs.31,258/- only to the Government and the balance amount was not deposited in spite of issuing notices. Thereafter, the State Government ordered a Departmental Enquiry and that the Enquiry Officer, after conducting enquiry, submitted a report dated 10.07.2000 observing that the petitioner was responsible for the loss of Rs.97,081/- and, therefore, it should be recovered from his salary. Basing on the said report, the Government by an order dated 10.07.2000 ordered stoppage of three annual grade increments with cumulative effect. Aggrieved by the same, the petitioner filed O.A.No.1453 of 2008 and that the A.P. Administrative Tribunal by order dated 29.10.2009 disposed of the said O.A. confirming the order of recovery, but, however, the stoppage of three annual grade increments is reduced into one increment with cumulative effect. Subsequently, on the representation made by the petitioner, the Government modified the order of punishment of stoppage of one increment with cumulative effect to that of stoppage of increment without cumulative effect. Thereafter, in view of remittance of misappropriated amount by the petitioner, the Assistant Director of Sericulture, after obtaining permission from the Director of Sericulture, sent proposals to the District Collector, for withdrawal of the prosecution against the petitioner, who in turn sent the said proposals to the State Government by letter dated 30.10.2011. Since the Government did not take appropriate action on that proposals, the petitioner filed W.P.No.26294 of 2001

questioning the inaction of the Government in passing orders and thereafter this Court by order dated 06.04.2009 disposed of the said Writ Petition directing the Government to take appropriate decision on the letter addressed by the District Collector, Cuddapah, within a period of two months from the date of receipt of that order.

Heard the learned Counsel appearing for the petitioner and the learned Public Prosecutor, representing the State.

Learned Counsel for the petitioner submitted that the allegations made in the complaint do not attract the provisions of Section 409 I.P.C. and that the petitioner has not misappropriated any amount.

The allegations leveled against the petitioner prima facie attract an offence punishable under Section 409 I.P.C. The fact that the petitioner was found guilty for the charge leveled against him in the departmental enquiry itself goes to show that there is sufficient material to proceed against the petitioner. Merely because the misappropriated amount has been remitted by the petitioner, that itself is not a ground to quash the proceedings initiated against the petitioner. The truth or otherwise of the allegations cannot be gone into in this petition and it can only be decided during the course of trial. All the contentions raised by the learned Counsel for the petitioner fall within the purview of disputed questions of fact and they cannot be decided in this petition, but can be considered by the trial Court at the time of trial. Therefore, I see no reason to interfere with the matter at this stage by quashing the proceedings against the petitioner.

Accordingly, the Criminal Petition is dismissed. However, the trial Court is directed to dispose of C.C.No.44 of 1999, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

24-07-2015

Gsn