

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION No.4152 of 2013

ORDER:

The petitioner/ sole accused filed the Criminal Petition under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.820 of 2012 on the file of Additional Judicial First Class Magistrate, Bhongir, Nalgonda District against 1st respondent—Mandal Educational Officer, and 2nd respondent—State represented by public prosecutor. The crime is registered on 23.06.2012 for the offences punishable under Sections 15 and 63-A of Copy Rights Act, 1957.

2) The substance of the FIR of Mandal Educational Officer speaks in the nutshell that ABVP and other students were running book stall by name M/s.Ravi Book Stall. The Mandal Education Officer conducted a surprise raid with the assistance of police on the book stall, for which the shop owner did not co-operate and closed the shop and went away from the shop. Due to non-availability of accused—shop owner, the local MLA expressed his opinion to continue inspection and in the presence of Executive Officer, Grampanchayat, the complainant seized the two doors of the shop and seized 79 text books which were supplied by the State Government, which are meant for free distribution to students and there is no proceeding in favour of the petitioner/ accused for its distribution even to the students, thereby he committed the offences.

3) The police having registered the crime for the offences supra filed the final report after investigation by reiterating the same by citing as many as eight witnesses i.e., LWs.1 to 8 including punch witnesses for the seizure and eye witnesses.

4) The police filed final report under Sections 420 and 403

IPC and Section 15 (1) of Copy Rights Act, 1957. The learned Magistrate has taken cognizance for the offences supra and the accused impugning the same filed the quash petition.

5) The contents in the grounds of appeal of quash petition to quash the said crime culminated in final report that was taken cognizance by the learned Magistrate for the offences supra are that there is no whisper regarding the existence of Copy Right or any violation of the Copy Rights Act to invoke Section 15 or 63 of the Act for nothing infringement or contravention of provisions is made out and learned Magistrate did not consider the same and taken cognizance and selling government books in a book shop by owner of the shop does not amount to violation of offences as held by this Court earlier in relation to the petitioner himself in the reported judgment in ***Chinta Narasimha vs District Collector, Guntur***^[1] in CrI.P. No.6972 of 2007 and thereby the proceedings are liable to be quashed.

6) Whereas, it is the submission of the learned public prosecutor for respondents 1 and 2 that there is a clear violation by cheating in selling the Government books meant for free distribution to students and procuring them in large scale by the petitioner for selling the same to others that also amounts to misappropriation for wrongful gain by the petitioners and thereby there is nothing to quash the proceedings.

7) Heard and perused the material on record. No doubt so far as the offence under Section 15 of Copy Right Act concerned from the allegations no offence is made out. So far as the offence under Section 403 IPC attracts or not it is left open for the trial Court while considering the entire material before framing charges to frame charge or not. However, so far as the offence under Section 420 IPC concerned on its face when it attracts there is nothing to quash the

proceedings.

8) Accordingly, the Criminal Petition is disposed of while quashing the offence under Section 15 of the Copy Rights Act, so far as the other offences are concerned there is no material to quash the proceedings but for it is left open for the defence of the accused before the trial Court including for any of the right before framing of charges to consider on the prosecution material vide ***State of Orissa vs Debendranath Padhi***^[2].

9) Miscellaneous petitions, pending if any in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22.12.2015
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[\[1\]](#) 1998 (5) ALD 490

[\[2\]](#) 2005 (1) SCC 568