

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

Crl.P.M.P.No.12747 of 2015

in

CRIMINAL PETITION No. 9603 of 2015

ORDER :

This application is filed with a prayer to post the above criminal petition under the caption "for being mentioned" to modify the order, dated 09.10.2015, passed therein.

Learned counsel for the petitioner submits that though this Court disposed of the above criminal petition on 09.10.2015 directing the learned Additional Judicial Magistrate of First Class, Nirmal, to dispose of C.C.No.26 of 2010 within a limited period, but the order was typed as if the matter was compromised and, therefore, sought to modify the order, dated 09.10.2015.

The learned Additional Public Prosecutor did not oppose the application.

In view of the above submissions and having perused the material available on record, this application is ordered and the order, dated 09.10.2015, passed in Crl.P.No.9603 of 2015 is recalled and, in its place, the following order is passed:

"This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A5 seeking to quash the proceedings pending against him in C.C.No.26 of 2010 on the file of Additional Judicial Magistrate of First Class, Nirmal, Adilabad District, for an offence punishable under Section 409 of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor representing the State and perused the record.

3. The petitioner herein is A5. The allegations, in brief, are that a complaint came to be lodged by L.W.1-Bonagiri Srinivas, the Municipal Commissioner, 2nd respondent herein, stating that the petitioner/A5 and other accused have misappropriated an amount of Rs.671,691/- pertaining to property tax and water charges of Nirmal Municipality. It is further alleged that even after issuance of a show cause notice, the accused persons have not remitted the amounts. It is also stated that during the course of investigation, the said persons have confessed that they have misappropriated the amounts.

4. The material on record *prima facie* made out a case against the petitioner involving commission of the offence which requires an enquiry into the allegations.

5. Having regard to the facts and circumstances of the case and since the offence as alleged in the charge sheet is serious in nature involving misappropriation of huge public funds, this Court is not inclined to quash the proceedings.

6. Accordingly, the Criminal Petition is dismissed. However, since the matter is of the year 2010, the learned Additional Judicial Magistrate of First Class, Nirmal, Adilabad District, is directed to proceed with the case in C.C.No.26 of 2010 and dispose of the same, as expeditiously as possible, preferably, within a period of six (6) months from the date of receipt of a copy of this order.

As a sequel thereto, miscellaneous applications, if any, pending in the criminal petition shall stand dismissed.”

M.S.K.JAISWAL,J

7th December, 2015
cbs

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