

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

MONDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

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

CRIMINAL REVISION CASE No.1644 of 2013

Between:

Pabba Vijay kumar

..... PETITIONER

AND

The State of A.P. rep.by its Public Prosecutor,
High Court, Hyderabad and another

.....RESPONDENTS

The Court made the following:

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

CRIMINAL REVISION CASE No.1644 of 2013

ORDER:

The criminal revision case is filed against the order dated 30.04.2013 in CrI.M.P.No.232/2013 in CC No.4/2003 on the file of the 1st Additional Metropolitan Sessions Judge, Hyderabad, by and under which, the Court below dismissed the petition filed by the petitioner/A8 under section 227 r/w. Sec.239 Cr.P.C seeking to discharge him from the charges levelled against him.

Heard the learned counsel appearing for the petitioner/A8 and the learned Additional Public Prosecutor, representing the State.

The facts in brief are that the Deputy Superintendent of Police, SDT-II, C.I.D, Hyderabad laid charge sheet against 89 accused persons in Cr.No.8/2003 including the petitioner/A8 and the case was taken on file for the offence under section 120-B IPC and under Section 5 of Andhra Pradesh Protection of Depositors Financial Establishments Act, 1999. The petitioner/A8 was the Director of the Vasavi Cooperative Urban Bank Limited from 17.03.2002 to 06.03.2003. Virtually, during his tenure no loans were sanctioned or no advances were allowed. He was neither borrower nor a guarantor to any of the loans sanctioned by the bank. The Chief Executive Officer of the bank has issued a certificate that there is no outstanding loan for which the petitioner/A8 is liable in his name as borrower or guarantor. No irregularities were committed during the tenure of the petitioner/A8.

The main contention of the petitioner/A8 is that he having been elected as one of the Directors of the bank on 17.03.2002 has resigned from the said post on 25.09.2002. The allegations with regard to the acts of omissions and commissions and the irregularities attracting the penal provisions have been committed only after he ceased to be a Director. It is further contended that some of the accused who were similarly placed have been discharged or cases against them were withdrawn by the prosecution. It is further contended that even according to the allegations, the petitioner/A8 was neither loaner nor a guarantor and no loans were sanctioned during his tenure as a Director.

The record reveals that previously i.e. earlier to the present impugned petition, the petitioner/A8 filed a petition before the Court below seeking to discharge him from the charges levelled against him, but the same was dismissed by the learned trial Court. Thereafter, once again, the petitioner/A8 filed the present CrI.M.P.No.232/2013 to discharge and the same has been dismissed by the Court below by the impugned order dated 30.04.2013.

The learned Additional Public Prosecutor, representing the State, submits that on the ground that the provisions of Section 5 of the Andhra

Pradesh protection of Depositors Financial Establishments Act, 1999 will not be applicable, the petitioner/A8 cannot be discharged. He further contends that in so far as the non-petitioner/A19 is concerned, when the proceedings against him were quashed, the matter was carried to the Supreme Court in Criminal Appeal No.1486/2013 and the same was allowed, setting aside the quashing orders passed against the non-petitioner/A19, and in the circumstances, he prays to dismiss the present revision case.

The learned trial Court has considered the entire material on record and found that there is *prima facie* case against the petitioner/A8 to proceed with the trial by framing appropriate charges. Upon taking into consideration the nature of the allegations and the material on record, I do not feel that it is a fit case to observe that there is no material on record whatsoever to proceed against the petitioner/A8. The order of the court below cannot be said to be suffering from any infirmity, legal or otherwise, warranting interference.

For the foregoing reasons, the Criminal Revision Case is dismissed. The Court below shall proceed with the trial, however, shall not insist for the presence of the petitioner/A8 for each and every adjournment, unless it feels that his physical presence is necessary for any specific purpose.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 31.08.2015

Dsr