

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.1020 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioner/ A.1 seeks to quash the proceedings in Crime No.10/RCT-EWG/2013 on the file of ACB, Eluru Range, Eluru.

2) The factual matrix of the case is thus:

a) The *defacto* complainant gave a report to DSP, ACB, Eluru alleging that he is a truck driver by profession in Undrajuvaram village and he is tenant in the neighboring portion of one Manda Jairaju and the said Jairaju who was a drunkard, died due to illness on 26.05.2013 and on 27.05.2013 he was cremated as per Christian religious rites and subsequently, the daughter of Jairaju gave a report to Police expressing suspicion over the death of her father and therefore, on 29.05.2013 the S.I, MRO and VRO exhumed the dead body and conducted panchanama and also postmortem at the burial place and the case was under investigation. He further alleged that about four days back the petitioner/A.1 who is the ASI of Undrajavaram summoned the *defacto* complainant to Police Station and informed that there was a suspicion against him in the death of Jairaju and that he has to pay Rs.5,000/- as bribe in order to not to arrest him in the case. The *defacto* complainant protested that he had nothing to do with the case and the deceased was a drunkard and death was due to his ill-health but A.1 insisted that since the complainant was residing in the neighbouring portion of the deceased, suspicion centered around him and threatened that he would implicate him in case if he failed to pay the demanded bribe amount. On that the *defacto* complainant met A.1 on 15.11.2013 and pleaded that he cannot pay more than Rs.3,000/- but A.1 insisted him to pay Rs.5,000/- by 17.11.2013 as otherwise he would arrest him by 18.11.2013 and send him for remand. Hence the report.

b) The DSP, ACB, Eluru registered the above report as FIR and after

conducting the pre-trap proceedings with the help of mediators, he laid trap against petitioner/A.1 on 13.11.2013 at the Undrajavaram P.S. The DSP directed the *defacto* complainant to proceed to the Police Station and pay the tainted bribe amount to petitioner/A.1 on his further demand and if he accepts, then to come out and give the pre-arranged signal to the trap party. Then the prosecution claims that the trap was successful inasmuch as the petitioner/A.1 instructed A.2 the Head Constable to receive the bribe amount from the *defacto* complainant and on his instructions A.2 received the bribe amount and in the resultant chemical test conducted by the DSP, the hands of A.2 proved positive to the test, whereas the test on A.1 yielded negative result. The DSP also conducted post-trap proceedings and got prepared second mediator report through the mediators.

The further investigation is reported to be pending.

3) Vehemently denying the prosecution case as false, learned counsel for petitioner/A.1 argued that petitioner/A.1 was implicated in a false case by the-then S.I of Police, Undrajavaram P.S namely Y.V.V. Satyanarayana who earlier got registered and investigated the suspicious death of M.Jairaju in Crime No.69/2013. Expatiating it, learned counsel submitted that earlier on 19.03.2013, the petitioner/A.1 received a complaint from one Pusarapu Venkata Ram Prasad against V.Jaya Rama Krishna and others over land dispute and pursuant to the same, the petitioner/A.1 issued a receipt to him and instructed him to approach the Civil Court since the dispute was civil in nature. But Sri Y.V.V. Satyanarayana, the S.I of Police advised the complainant to file private complaint in the Court and get it refer to Police Station for investigation under Sec.156(3) Cr.P.C and accordingly the said complainant filed a private complaint and got it referred to the SHO, Undrajavaram P.S under Sec.156(3) Cr.P.C. On the instructions of S.I of Police, A.1 registered FIR in Crime No.38 of 2013 under Sec.341, 447, 323, 506(2), 420 r/w 34 IPC and examined the complainant and his family members on 19.03.2013. On the next day, the S.I of Police, Sri Y.V.V. Satyanarayana took up investigation and arrested the accused therein. Aggrieved, the accused in that

crime approached the higher-ups and intimated about their sufferings in the hands of Police. On 18.09.2013, the Deputy Inspector General, Eluru Range summoned the petitioner and enquired about the registration of the FIR in the same matter which was earlier referred as civil dispute. The petitioner/A.1 gave his explanation and submitted that he registered FIR only as per the instructions of the Court. On perusal of the record, The D.I.G found fault with S.I of Police, Satyanarayana and kept him under suspension vide proceedings No.2168/P1/2013 (RO No.374/2013) dated 22.09.2013. Learned counsel further argued that since then the Satyanarayana, S.I of Police bore grudge against the petitioner/A.1 and hatched a plan to implicate the petitioner/A.1 in a false case on the assumption that the petitioner/A.1 was responsible for his suspension. Since then he used to telephone to Undrajavaram P.S and speak in a sarcastic manner that he was not happy with his suspension and the petitioner/A.1 would also be suspended soon. The petitioner did not take those words seriously. However, later he witnessed that the present complainant—T. Srinivas Rao was moving closely with S.I of Police and staying near his house. Frequent phone conversations were also taken place between them. Thus they hatched a plan and made the petitioner a scapegoat.

Learned counsel further argued, that the petitioner was innocent is evident from the fact that he did not receive the bribe and it was not found with him and his hands did not yield positive result to chemical test. Further, in Crime No.69 of 2013 on 29.05.2013 when the S.I and MRO got conducted exhumation panchanama and postmortem on the dead body of Manda Jairaju, the petitioner/A.1 was on leave due to the marriage of his younger son and so he did not know what transpired in connection with Crime No.69/2013 and what steps were taken by the S.I, Satyanarayana. Added to it, the petitioner/A.1 was not investigating the Crime No.69/2013 and as such, he was not in a position to assure the *defacto* complainant (R.4) to exempt him from the case and demand bribe on that assurance. Basing on the FSL report, since there was a possibility of registering the death of Jairaju

as a case under Sec.302 or 306 IPC, which as per police standing orders is a grave offence and to be investigated by Inspector of Police, there was no possibility for petitioner/A.1 to investigate the same so as to demand bribe from the complainant on a false assurance. He argued that without considering all these aspects, the ACB department registered the case and laid a trap which is a failure in reality and hence continuation of proceedings will amount to abuse of process of law. He thus sought for quashment of the proceedings.

4) On the other hand, learned Additional Public Prosecutor argued that the record would show that the tainted bribe amount was received by A.2 only on the instructions of petitioner/A.1 which establishes that the petitioner/A.1 solicited the bribe and whether the petitioner was really guilty of demanding bribe or whether he was falsely implicated in the case would be known only after thorough investigation by the Police and hence, he argued, it is not apt to quash the proceedings abruptly in the midway. He thus sought for dismissal of the petition.

5) In the light of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

6) **POINT:** As can be seen from the submission of the petitioner/A.1, his main contention is that he was implicated in a false case at the instance of S.I, Y.V.V.Satyanarayana who bore grudge against petitioner/A.1 on the assumption that he was suspended due to the information provided by petitioner/A.1 to Deputy Inspector of General, Eluru in connection with another case. It is the case of the petitioner/A.1 that he never solicited the bribe and accepted the same and he did not instruct the A.2—S.Ram Babu, the Head Constable to receive the bribe amount on his behalf. Be that it may, a perusal of the second mediators’ report prepared by the DSP, ACB after trap, a copy of which is filed along with this petition, will show that during the post trap proceedings when DSP enquired A.2 as to how he got the amount, he allegedly admitted to have accepted the money from the complainant on the instructions of petitioner/A.1 for

not implicating and not arresting the complainant in the case relating to the suspicious death of Jairaju. The petitioner/A.1 has not brought to the notice of this Court about the need for A.2 to speak falsehood against A.1. In these circumstances, at this stage having regard to the material available on record, it can only be said that there is a *prima facie* material against petitioner/A.1. As rightly argued by learned Additional Public Prosecutor, whether the petitioner/A.1 really solicited the bribe from the *defacto* complainant or whether he was implicated in a false case by the complainant with the connivance of S.I of Police have to be decided only after a thorough investigation in this matter. Therefore, it is not apt to quash the proceedings.

7) Accordingly, this Criminal Petition is dismissed with a direction to the investigating agency to complete the investigation expeditiously by taking into consideration the explanation offered by the petitioner/A.1 in his letter dated 11.01.2014 to the statutory notice dated 01.01.2014 issued by DSP, ACB, Eluru.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 07.04.2015

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