

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.12438 OF 2014

ORDER.

This Criminal Petition is filed under Section 482 of Cr.P.C. to quash the proceedings in Cr.No.267 of 2014 of Ibrahimpatnam Police Station, Cyberabad, registered for the alleged offences punishable under Sections 420 and 468 of I.P.C.

Petitioners herein are the accused and 2nd respondent herein is the defacto complainant.

It is the case of the defacto complainant that A.P.Bhoodan Yagna Board has been reconstituted on 14-12-2012 by appointing one Rajender Reddy and 9 others as the chairperson and members of the Board vide G.O.Ms.No.687, dated 14-12-2012. While reconstituting the board, the recommendations said to have been made by Mahila Chethana Kendra which claimed to be a close associate of Acharya Vinoba Bhave said to have issued a letter dated 25-12-2012, claiming to recommend reconstitution of Board which was due to expire on 17-8-2012, the said recommendation obviously appears to have been obtained by stage managing, the persons unknown and alien to the nominee of Sri Acharya Vinoba Bhave. The original body of Sarva Seva Sangh has been nominated by Sri Acharya Vinoba Bhave on 08-01-1973 the said body viz., Sarva Seva Sangh has been duly nominated Sri Acharya Vinoba Bhave, has been authorized to recommend the reconstitution of the Board time and again periodically whenever the tenure of the constitutional Board was expired.

Subsequently, the self styled association viz., Mahila Chethana Kendra, which was claimed itself and associate of late Sri.Acharya

Vinohbha Bhave said to have recommended the names of the members of the Board reconstituted without verifying the authenticity of the body, the Board has been reconstituted by the current members.

The main contention of the petitioners before this court is that the petitioners names were not found anywhere in the complaint lodged with the police and in the absence of any specific allegation made against them, they cannot be prosecuted for the said offences and that the allegations made in the F.I.R. would not constitute the offences on its face value.

The learned Public Prosecutor for the State of Andhra Pradesh while contending that the allegation made in the complaint is only information about the occurrence of a cognizable offence to the police and it need not contain minute details, but taking into consideration of the serious allegations made, the matter was referred to C.B.C.I.D. and it is pending for investigation.

As seen from the allegations made in the complaint lodged with the police, there are no specific allegations against these petitioners but the amount involved in the incident is more than Rs.68,00,000/-. However, the serious allegations have been made in the complaint regarding manipulation of records and fraud allegedly committed by the members of the Board but in view of the specific contention of the counsel for the petitioners about the absence of any specific allegations to show the involvement of the petitioners, the court cannot proceed against them. No doubt, the petitioners names were not referred anywhere in the complaint but in the complaint, it is pointed out about the fraud and manipulation of records etc., The complaint is only information about the occurrence of a cognizable offence to the police to set the criminal law into motion and it

need not contain minute details since it is not an encyclopedia of facts, therefore, failure to mentioning the names of the petitioners in the complaint is not a ground to quash the proceedings. Even otherwise, at the crime stage, the court must be cautious to exercise such powers under Section 482 of Cr.P.C. since such power can be exercised only in exceptional circumstances. While exercising inherent jurisdiction under Section 482 Cr.P.C., it is not permissible for the High Court to act as if it was a trial court, even if charges are framed, at this stage, the court has to only prima facie be satisfied about the existence of a ground to proceed against the petitioners–accused. For that limited purpose, the court can value the material and documentary evidence on record and the court is not required to appreciate the evidence to conclude whether the material produced is sufficient or not for convicting the accused in view of the law declared by the Honourable apex court in a decision reported in *STATE OF ORISSA AND ANR VS SAROJ KUMAR SAHOO* ⁽¹⁾

In the present case, the factual matrix is that the amount involved in case is a huge amount and the act of the Board members and Chairperson and its Board Members, if proved, and in such a case, when the facts are incomplete before the court, it is difficult to prima facie conclude that the petitioners did not involve in commission of such offences, more particularly, when the case is pending for investigation before C.B.C.I.D. Therefore, I find no merits in this case to quash the proceedings at this stage.

The learned counsel for the petitioners at this stage requested this court to direct the police concerned to follow the procedure provided

¹ 2005 (13) SCC 540.

under Section 41-A IPC and the guidelines laid down by the Apex Court in a decision reported in *ARNESH KUMAR V. STATE OF BIHAR*⁽²⁾.

Acceding to the request made by the learned counsel for the petitioners, Investigating Agency is directed to follow the procedure provided under Section 41-A IPC and the guidelines laid down by the Apex Court in a decision in *ARNESH KUMAR Vs. STATE OF BIHAR* (2nd cited).

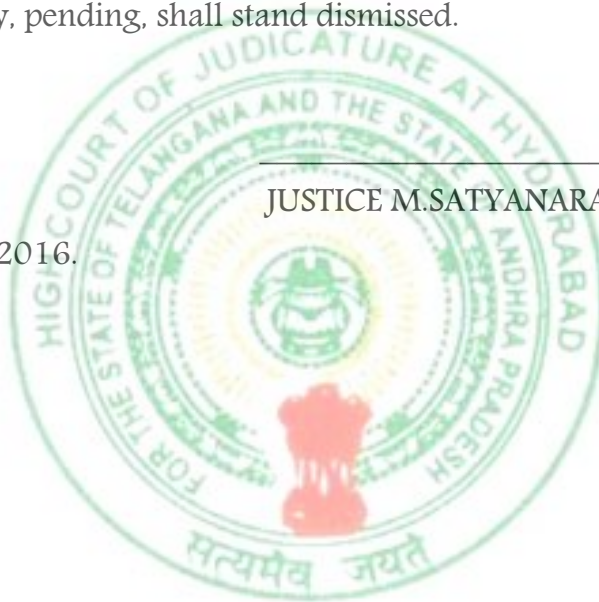
With the above direction, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 23-12-2016.

Dvs.



² 2014(2) ALT (CrI.) 457 (SC)

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Dated 23-12-2016

Dvs