HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2883 of 2015

ORDER:

The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. aggrieved by the order dated 09.11.2015 passed in Crl.M.P.No.362 of 2015 in C.C.No.1 of 2011 on the file of the Special Judge for Speedy Trial of Cases of Embezzlement of Scholarship Amounts in Social Welfare Department, Hyderabad, wherein and whereunder an application filed by the petitioners, who are accused Nos.8, 12 and 14, for their discharge was rejected.

The case of the prosecution as culled out from the charge sheet is as under:

On 21.01.1994 the Director of Social Welfare Department, lodged a report with CID, Hyderabad, stating that certain false claims of scholarships were made in fictitious names of scheduled caste and backward classes college students in respect of 95 educational institutions in twin cities of Hyderabad and Secunderabad by the officials of the office of the Deputy Director, Social Welfare, Hyderabad, thereby misappropriated huge government funds. Basing on these allegations a case in crime No.3 of 1994 came to be registered by the CID for the offences punishable under Sections 120 (B), 406, 409 and 471 IPC. During the course of investigation they have examined about 144 witnesses and a detailed charge sheet came to be filed referring to names of various colleges which have misappropriated the amounts during the years 1984-1987. It was found that total amount misappropriated was Rs.83,21,628.91. The charge sheet also refers to the role played by each of the accused in the commission of offence.

Insofar as accused No.8 is concerned it is alleged that he was working as Senior Assistant in the office of Deputy Director, Social Welfare, Hyderabad from 23.12.1985 to 31.03.1987. During his tenure he facilitated issuance of 365 proceedings sanctioning scholarships in favour of 2673 fictitious students belonging to different colleges. It is said that he conspired with other staff of Social Welfare Department and abetted the offence of cheating causing loss to a tune of Rs.33,72,794.50.

Insofar as accused No.12 is concerned, it is alleged that he was working as U.D.Accountant in the office of Deputy Director, Social Welfare, Hyderabad from 01.12.1984 to 21.08.1988. During his tenure, he facilitated issuance of 447 proceedings and got sanctioned scholarships in favour of 3056 fictitious students thereby causing loss of Rs.40,60,507.25 to the government exchequer.

Insofar as accused No.14 is concerned, it is alleged that he was working as Superintendent in the office of Deputy Director, Social Welfare, Hyderabad from 01.04.1984 to 06.11.1985. During his tenure, he facilitated issuance of 167 proceedings and got sanctioned scholarships in favour of 4115 fictitious students of different colleges thereby causing loss to a tune of Rs.38,46,016.76. Basing on these allegations a charge sheet came to be filed.

Learned counsel for the petitioners mainly submits that there is absolutely no material to connect the petitioners with the crime. It is his case that subsequent to registration of crime, departmental proceedings came to be initiated against the petitioners, which were withdrawn. It is urged that though the alleged incident took place in the year 1994 charge sheet came to be filed in the year 2011 showing the petitioners as accused and there is no explanation for the abnormal delay in filing the final report. Having regard to the above circumstances he submits that continuation of proceedings would be an abuse of process of law.

It is to be noted that earlier accused Nos.27, 28 and 7 filed Criminal petition No.10746 of 2015 seeking quashing of the proceedings in the very same crime registered against them. Relying upon the earlier orders passed by this Court in Crl.P.No.6523 of 2012 and Crl.P.No.15720 of 2013, a learned Single Judge of this Court quashed the proceedings against accused Nos.27, 28 and 7 since the petitioners therein stands on the same footing as that of the above accused. Thereafter, accused No.9 filed Crl.R.C.No.2159 of 2015 questioning the order refusing to discharge him in the very same crime. By its judgment dated 09.10.2015 a learned Single Judge of this Court allowed the revision and discharged accused No.9 in the above case. Similarly accused No.2 also preferred Crl.R.C.No.689 of 2016 before this Court questioning the orders passed in Crl.M.P.No.429 of 2016 refusing to discharge him from the case. The said revision was allowed on 15.07.2016 and this Court discharged accused No.2 in the above case.

The material placed before the Court would show that in the month of July, 1989 the matter was entrusted to the Commissioner of Inquiries, who failed to conduct enquiry due to technical and procedural reasons. Subsequently G.O.Ms.No.191, dated 12.03.1992 was issued withdrawing the appointment of T.Padmanabham and the case was entrusted to S.R.Sukumara, IPS, who was appointed as Second Commissioner of Inquiries, who closed the case due to non-availability of records vide G.O.Rt.No.491, SW (A1) Department, dated 02.05.1997. Thereafter, in January, 2000 the Joint Collector, Hyderabad, was appointed as Enquiry Officer but he could not complete the enquiry. Hence, in the year 2003 one Raghava Reddy, a Joint Director (SW) was appointed as an Enquiry Officer. He submitted his report stating that except the report of District Vigilance and Enforcement Officer, Hyderabad, there is no material touching the charges or to refute the explanations given by the charged officers. In the absence of material evidence, it was held that it is not possible for the Enquiry Officer to arrive at conclusions to say that the charges were proved beyond reasonable doubt.

In view of the earlier orders passed by this Court and the material placed on record, it is clear that the petitioners were exonerated in the departmental proceedings. That being the position the question is whether the petitioners are entitled for discharge in view of the orders passed in the departmental proceedings.

In ***Vakil Prasad Singh v. State of Bihar***[1] the Apex Court held as under:

> "It is well settled that the right to speedy trial in all criminal prosecution is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in Court but also includes within its sweep the preceding police

> investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the Court has to perform the balancing act upon taking into consideration all the attendant circumstances and determine in each case whether the right to speedy trial has been denied in a given case. … … … … …
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> Where the Court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the Court to make an appropriate order as it may deem just and equitable including fixation of time frame for conclusion of trial."

In ***Lokesh Kumar Jain v. State of Rajasthan***[2]***,*** the Apex Court held as under:

> "In our view, keeping investigation pending for further period will be futile as the respondent including Directorate for the State Literacy Programme is not sure whether original records can be procured for investigation and to bring home the charges. Considering the fact that delay in the present case is caused by the respondent, the constitutional guarantee of a speedy investigation and trial under Article 21 of the Constitution is thereby violated and as the appellant has already been exonerated in the departmental proceedings for identical charges, keeping the case pending against the appellant for investigation, is unwarranted, the FIR deserves to be quashed."

In view of the judgments referred to above and since the petitioners stand on the same footing as that of other accused, who were discharged from the case, this Court is of the view that no purpose would be served in proceeding with the trial especially in the absence of any records. Hence, the Criminal Revision Case is allowed.

Miscellaneous petitions, if any, pending, shall stands closed.

C.PRAVEEN KUMAR,J

05.08.2016
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[1] (2009) 3 SCC 355

[2] (2013) 11 SCC 130