

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.1667 of 2015

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash proceedings initiated against the petitioner/accused in FIR No.13/RCA-TCT/2014, dated 18-08-2014 of ACB, Tirupathi Range, Tirupathi, registered for the offences punishable under Section 13 (2) read with Section 13 (1) (e) of Prevention of Corruption Act, 1988.

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

It is evident from the material on record that on an anonymous petition received by the Director General, Anti Corruption Bureau, Hyderabad vide PETN No.3506/PTN-DIR/2012 dated 18-12-2012 against one S.Md. Jeelani Basha, Electrician, Tataihgunta Gangamma Temple, Tirupathi, the petitioner herein, the Inspector of Police, Anti-Corruption Bureau, Tirupathi Range, Tirupathi, on entrustment of the same for enquiry, had conducted a confidential enquiry and submitted his report wherein it is alleged that the petitioner, being an employee of Tataiahgunta Gangamma temple, Tirupathi as Watchman-cum-Electrician, has acquired huge properties disproportionate to his known sources of income in the names of himself and his wife by illegal and corrupt practices by diverting the funds of the temple, and thereby he is liable for prosecution under the Prevention of Corruption Act.

Learned counsel for the petitioner/accused submits that the petitioner is working as watchman-cum-electrician in the temple, whose collection is not more than one lakh per year and that the said temple is also not having any properties, which can be

diverted by the petitioner or sold in the market. He further contended that except the allegation that the petitioner being an employee of a temple embezzled the funds of the temple and acquired properties as mentioned in the complaint by illegal and corrupt practices, there is nothing on record to show that he embezzled the funds in the capacity of public servant. He also further contended that the petitioner cannot be termed as public servant in view of the decision of this Court in W.A.No.1789 of 2004 and W.P.No.24815 of 2005 & W.A.No.150 of 2006, dated 19-03-2008.

Having regard to the facts and circumstances of the case and the submissions of the learned counsel for the petitioner, this court is of the view that in order to attract the ingredients of the offence punishable under Section 13 (1) (e) of the Prevention of Corruption Act, 1988, there must be some proof that the accused, in the capacity of a public servant, is in possession or has been in possession of pecuniary resources or property disproportionate to his known sources of income at any time during the period of his office, for which the public servant cannot satisfactorily account, and it must also be proved that he has an authority in vesting the rights to execute the work entrusted being a public servant.

All these points raised by the petitioner can be considered by the investigating agency during the course of investigation and this court cannot determine the same invoking the jurisdiction under Section 482 Cr.P.C., and hence, this Court is not inclined to interfere with the proceedings at this stage.

In that view of the matter, the respondent ACB officials are directed to complete proper investigation into the alleged offences

and file final report, if any, in accordance with law. However, it is made clear that if the petitioner is aggrieved by the final report that may be filed, he is at liberty to approach this Court for seeking appropriate relief available to him under the law.

Accordingly, the criminal petition is disposed of. As a sequel thereto, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 11-04-2016

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