THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION Nos.9904 AND 9914 OF 2013

COMMON ORDER :

The self-same petitioner Smt P. Varalamma, filed these two criminal petitions against the 1st respondent-State of Andhra Pradesh rep. by the Public Prosecutor in common and the respective complainants as 2nd respondent, seeking to quash the proceedings in Cr.No.55 of 2012 in Crl.P.No.9904 of 2013 and Cr.No.54 of 2012 in Crl.P.No.9914 of 2013.

2. The petitioner is the Assistant General Manager of Krishna District Co-operative Central Bank Ltd., (for short 'the KDCC Bank') and worked earlier in that capacity in the said bank. The two crimes, which are now sought for quashing by these two criminal petitions, are registered on 10.03.2012 against her by the same Police Station of G.Kodur of Krishna District for the offences punishable under Section 409 and 420 of I.P.C. The Cr.No.54 of 2012 is registered on the report of the 2nd respondent Sri G.Murali Mohan Rao (customer of the bank) vide Crl.P.No.9914 of 2013 and the Cr.No.55 of 2012 is registered on the report of the 2nd respondent Sri Mr. D.Ravindra Tagore (Officer of the Bank) with the similar allegations and said crimes were registered originally against K.Amarnath Reddy and T.Murali Krishna only, however, during the course of investigation, five others including the petitioner herein as A.5, were mentioned as accused persons on additional memo also by altering sections of law, including Section 166, 408, 409, 420, 464, 477-A r/w.119 of Indian Penal Code.

3. The petitioner was appointed as Nodal Officer of G.Konduru branch of KDCC Bank and while discharging duties, according to her, she unearthed and detected fraud and mis-appropriation of Rs.11 Lakhs in S.B.Account (Ledger account) No.4008 and forwarded a complaint to the Chief Executive Officer and after due enquiry, misappropriation of Rs.2,73,08,377/- was found. Enquiry under Section 51 of the Andhra Pradesh Co-operative Societies Act (for short, 'the Act') was initiated therefrom and as per the orders passed by the Registrar of Co-operative Societies, the above crime initially registered against few accused and later the petitioner among others with altered memo was added and are figured as accused of the crime. It is claimed that she was suspended pursuant from which the enquiry report pointing out her in action in timely not reporting the so called fraud and therefore impugned the said suspension order in W.P.No.36835 of 2012 and got favourable interim order dated 13.04.2013 in W.P.M.P.No.46754 of 2012. It is her contention that the allegations were made against the cashier, Manager and other officers of the Bank and not against her and the only allegation is that she remained as spectator instead of reporting the inaction though it is on her setting in motion about the fraud ultimately that was detected to which she is no way of privy by any sort of allegations against her in this regard. She contends that even the order of the C.E.O dated 06.03.2012 speaks that it is she set the matter in motion for initiation of proceedings, in contending thereby of not a party to the fraud much less to make her life for any of the offences of the crime pending from the memo of FIR implicated her among others for several of the offences.

4. Pending this criminal petition, there is an interim order passed by this Court on 23.06.2015 in both the criminal petitions which reads as follows :

> ***"Heard the learned counsel for the petitioner.***
>
> ***The petitioner herein was working as Assistant General Manager with Krishna District Cooperative Central Bank Limited. She sought for quashing the crime No.54 of 2012 on the file of G.Konduru Police Station, Krishna District.***
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> ***The said complaint is lodged by the 2nd respondent herein, who is the Branch Manager of the Bank at its G.Konduru Branch, wherein it is stated that the previous branch manager by name K. Amarnath Reddy and the previous cashier by name T.Murali Krishna of the Bank have diverted Rs.11,00,000/- deposited by one of the customers of the Bank by name Sri Palagani Rambabu and mis-utilized the same for their personal benefit.***
>
> ***Learned counsel has brought to my notice that the Bank has got investigated the matter and the bank found that the petitioner is no way responsible for the misappropriation of funds of the branch.***
>
> ***Therefore, stay of all further proceedings insofar as the petitioner is concerned.***
>
> ***Learned Public Prosecutor seeks four weeks time to obtain latest instructions in the matter.***
>
> ***Call after four weeks.***

5. As both the crimes are outcome of the reports of same allegations against the same petitioner, both the matters are taken up together for disposal by common order.

6. Heard learned counsel for the petitioner vis-à-vis the 1st respondent represented by learned Public Prosecutor at length and perused the material on record including the additional material placed by the petitioner supra.

7. The report of Sri G.Murali Mohan Rao-2nd respondent (sought quash in Crl.P.No.9914 of 2013) dated 09.03.2012 addressed to the Station House Officer, G.Konduru Police Station, speaks that he is having S.B.Account No.78 in K.D.C.C. Bank supra and on 20.02.2012 he has credited Rs.3,00,000/- therein and on the next day he has withdrawn Rs.1,00,000/- and he has given cheque for Rs.20,000/- on even date to one M.Vinod Kumar, and on 06.03.2012 Rs.33,000/- was again withdrawn by him, through another cheque, and the balance amount remained in his account was Rs.1,48,822/-. On 09.03.2012 by the date of his report when he submitted a cheque to withdraw amount it was found no balance and he noticed some irregularities therein and sought for action which was registered as the crime.

8. The report of Sri D.Ravindranath Tagore, Branch Manager, KDCC Bank Ltd., is that while verifying the records of the branch, it is observed that Sri Kalakota Amaranath Reddy Ex.Manager(A.1) and Tangella Muralikrishna, Ex-Cashier (A.2) of the said bank jointly deviated the amount to a tune of Rs.11,00,000/- deposited by Sri Palagani Rambabu on 22.10.2011 for their personal use without bringing the same into the books of accounts of the bank but only recorded the amount in the passbook which resulted the bank in loss of

Rs.11,00,000/- and there also similar discrepancies in the bank and sought for action which was registered as the crime.

9. The memo filed by the police during pendency of investigation for addition of the accused and including some of the penal provisions which are referred supra including against the petitioner as A.5 speaks that the petitioner is one of the abettors to the offence to be made liable. In fact prior to the said report of Sri G.M.M.Rao dated 09.03.2012 the petitioner herein A.5 of the crime supra on 27.02.2012 claimed to have addressed a letter to the Chief Executive Officer about noticing of some irregularities in the S.B. account No.4008 of one P. Rambabu of Rs.11,00,000/- deposited on 22.10.2011 and there was also a credit advice created to that from the Regional Office, Vijayawada. However, there is no entry in the scroll of the cashier or the passing officer and also no entry in the Day Book either on 22.10.2011 or 22.11.2011 and the account holder has shown withdrawal of Rs.11,00,000/- on different dates Rs.5 Lakhs each on 14.12.2011 and 15.12.2011 and Rs.50,000/- each on 09.01.2012 and 24.02.2012 and amounts withdrawn were not even posted in the ledger folio of the S.B.Account and K.Amarnath Reddy and T.Murali Krishna are the passing officer and cashier and who are responsible and the Branch is obtaining withdrawals from customers without their signatures and posting in the S.B.ledgers and issuing demand drafts by showing the instances. The letter of the Chief Executive Officer dated 06.03.2012 addressed to the Assistant General Manager, Head Office of S.N. Puram Branch, of K.D.C.C. Bank with copy to the Branch Manager of G.Konduru speaks conducting of detailed enquiry from 01.04.2011 by referring to letter received from the petitioner referred supra dated 27.02.2012 as similar irregularities and discrepancies are suspected from other accounts also. Pursuant to it, on 08.03.2012 the Chief Executive Officer, Head Office, Machilipatnam issued proceedings and kept under suspension the said K. Amarnath Reddy, Manager of G.Konduru branch. The C.E.O., also ordered enquiry under Section 51 of the A.P.C.S. Act and having received the enquiry report which reveals the petitioner P.Varalamma, Assistant General Manager, Administration, Head Office, Machilipatnam from Nodal officer of G.Konduru branch concealed misappropriation of funds to a tune of Rs.2,73,08,377/- earlier by dereliction of her manifest duties where by suggested initiation of proceedings against her also. Consequently, she was also placed under suspension and it is pursuant to the enquiry report she is arrayed as additional accused of the crime by memo of police supra. In fact it requires the police investigation. Thus, there is nothing at this stage to quash the proceedings or to stop the investigation, other than arrest but for to observe, if at all she is not the Nodal Officer in the relevant period of the alleged misdemeanour of the funds of G.Konduru branch or there is no role of abatement, it is left open to her to submit any such material to the investigating officer/s to verify and consider. It is further left open, if at all from police final report and any cognizance taken for any offence also against her and if aggrieved, to impugn the same to decide on own merits. In view of the above, the interim stay of further proceedings in force is modified to the extent of not to arrest the petitioner pending investigation of both the crimes while proceeding further with the investigation.

10. With the above observations, both the Criminal petitions are disposed of.

11. Consequently, miscellaneous petitions, if any, pending in these criminal petitions shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:18.03.2016.
Rds/Vvr