

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.2337 of 2011

ORDER:

This criminal petition is filed by the petitioner seeking for quash of the proceedings in Cr.No.41 of 2011 on the file of the SHO, I Town Police Station, Kadapa City, YSR District.

2. Heard Mr. P. Gangaiah Naidu, learned senior counsel for the petitioner and learned Public Prosecutor, who took notice for respondents.

3. The crime got to be registered on the basis of the letter of the Collector wherein it was alleged that the petitioner herein obtained compassionate appointment by suppressing the fact that earlier a compassionate appointment was given to one of the family members.

4. Learned senior counsel for the petitioner submits that N. Vijay Kumar, who is the elder brother of the petitioner, applied for compassionate appointment with the department and as there was no vacancy in the department, the local MLA and the Superintendent of Police recommended him to be considered by Social Welfare Department and on such consideration, he was appointed as cook in the Social Welfare Department and subsequently, the petitioner made an application to the Police department, where his father worked and as there was no vacancy available in the police department, by following G.O.Ms.No.427 General Administration Department dated 01.07.1991 the petitioner was provided with employment in the Fisheries Department. Subsequently, on the basis of the report of the Vaartha Newspaper, after 18 years of the appointment of the petitioner in the Fisheries Department, that two compassionate appointments were given to the same family, the District Collector

recommended for departmental enquiry and for initiation of prosecution against the petitioner for cheating the department.

5. In the departmental enquiry, enquiry report has reflected all the backgrounds facts and the allegation that the petitioner obtained compassionate appointment by suppressing the earlier appointment of his brother is met by observing as follows:

“In this case the elder son Sri N. Vijay Kumar divided from the family and not supporting his old mother or younger brothers, the decision of the Superintendent of Police, Kadapa and the District Collector Kadapa to give compassionate appointment to the next son of the family i.e., Sri. N Reddaiah is appears to be correct as per the Govt Memo referred above.”

6. The propriety of appointment of the petitioner in the Fisheries Department also can be understood from the same enquiry report wherein the relevant G.O's were discussed and it was concluded that, following such G.O, the appointment was made. Hence, in the light of the above enquiry report, which is an irrefutable document and which is not refuted by the respondents, it can be concluded that there is no element of cheating on the part of the petitioner in obtaining compassionate appointment in the Fisheries department. Hence, when the facts of the case are such, any further proceedings in the above crime would only result in abuse of process of law.

The criminal petition is allowed and further proceedings in Cr.No.41 of 2011 on the file of the SHO, I Town Police Station, Kadapa City, YSR District are hereby quashed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

November 13, 2017
DSK