

THE HON'BLE DR JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7239 of 2017

ORDER:

The petitioner - R. Krishna is A.4 in C.C.No.506 of 2017 on the file of VIII Metropolitan Magistrate at Rajendranagar of Cyberabad. The learned Magistrate has taken cognizance for the offences punishable under Section 420 IPC and Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 (for short 'the Act'), from the police final report, which is the outcome of the report of the second respondent, G. Srinivas, – Assistant Supply Officer, Circle-III, Saroornagar.

The factual background shows that on 15.02.2016, the de facto complainant - Assistant Supply Officer lodged a written report before the Station House Officer, Mailardevpally, that was registered as Crime No.89 of 2016 which reads, one Sandeep Kumar, one D. Shashikanth, one R. Krishna are illegally purchasing PDS wheat and PDS rice from ration shop dealers and brokers and selling the same in open markets at Shadnagar and Zaheerabad, and he seized 190 quintals of PDS rice of 380 bags of 50 kgs each and 180 quintals of PDS wheat of 360 bags of 50 kgs each and booked a case under Section 6A of the Act to initiate confiscation proceedings covered by panchanama.

Based upon some information in this regard, the de facto complainant by securing the mediators, by names, B. Anjan and K.Venkatesh, visited the premises bearing H.No.19-5-479/14/1/B, Nandimuslaiguda, Kishan Bagh, Secunderabad, and seized 190 quintals of PDS rice (380 bags X 50 kgs each) and 180 quintals of PDS wheat (360 bags X 50 kgs each) and found one Krishna there who disclosed that Sandeep Kumar used to purchase PDS rice and wheat from the ration shop dealers and used to sell in open market and there is another flour mill of Sandeep Kumar viz., M/s. Sri Laxmi Flour Mill at Mailardevpally, where also, he used to collect PDS wheat and convert it into atta, and they also visited the said Sri Laxmi Flour Mill at H.No.8-3-33/6, and found therein 400 bags of PDS wheat each containing 45 to 50 kgs, total 190 quintals, and that the said Sandeep Kumar also confessed the same about their possessing PDS wheat and stated that he along with D. Shashikanth, partner of the flour mill, was purchasing rice and wheat meant for public distribution system from ration shop dealers and through brokers by paying Rs.5/- to Rs.7/- per kg on commission basis and selling the same for more price with reasonable margin and converting wheat into atta and supplying to Amith Kumar Chowdari and he further disclosed that one Md. Abdul Irfan was collecting rice and wheat meant for Public Distribution System through dealers

and brokers, by names, Kishore, Idris, Manohar, Manoj, Abdullah, Akram, Ganshyam Agarwal, and supplying the same to him. He disclosed the names of fair price shop dealers, Moosab, Yousuf, Khaled, Wahid, Baba, Shakeel, Kareem, Raheem, Salam, Haji and Narasinga Rao, from whom they are purchasing, and stated that he is collecting PDS rice and wheat from the above said persons and selling the same to Vinay, Srinu, Gopal, Dattatreya, Jakeer and Khan.

Based on the said report, with reference to the panchanama and seizure of PDS rice and wheat of clandestine deal, Crime No.89 of 2016 was registered against the accused for the offences punishable under Sections 406 and 420 IPC and the police during the course of investigation, examined the complainant besides the three panch witnesses about handing over the property for interim custody, the person to whom the property was handed over for interim custody, the three circumstantial witnesses and the five panch witnesses for seizure and confessions of A.4 and A.5.

The contentions of the learned counsel for the petitioner/A.4, R. Krishna, supra, are that the false accusation is, the petitioner is working as Clerk under A.1. A.1 is purchasing PDS commodities from ration shop dealers and through brokers and even the panchanama shows that he is working as Clerk in the godown. When the allegations are against A.1 to A.3, the

petitioner is no way concerned and the allegation that A.1 to A.4 are illegally purchasing PDS rice and wheat and selling in open market is baseless, as the petitioner/A.4 is only working under A.1 on salary basis, and thereby, the proceedings are liable to be quashed.

Heard learned counsel for the petitioner and learned Public Prosecutor representing the respondents including the Assistant Supply Officer and the State.

The wheat and rice meant for public distribution system to the public to consume, through dealers to supply cannot be sold by the dealers in question to the third parties other than the consumers and any deviation by the consumers is an offence, even under the latest Circulars/Orders issued by the Government of Telangana in this regard, apart from the breach of trust committed by the dealers in question in their not distributing to the end user-cum-consumer but clandestinely diverting the property by sale outside to the third parties by causing wrongful loss to the public represented by the Government to have wrongful gain by the dealers and also to benefit the third party brokers and dealers for their ultimate sale for higher price including by converting wheat into atta. When such is the case, there is nothing to quash the proceedings but for to say, the contention of the petitioner that he is only an employee working

under A.1 and nothing to do, is a part of his defence left open during trial when there is a *prima facie* accusation.

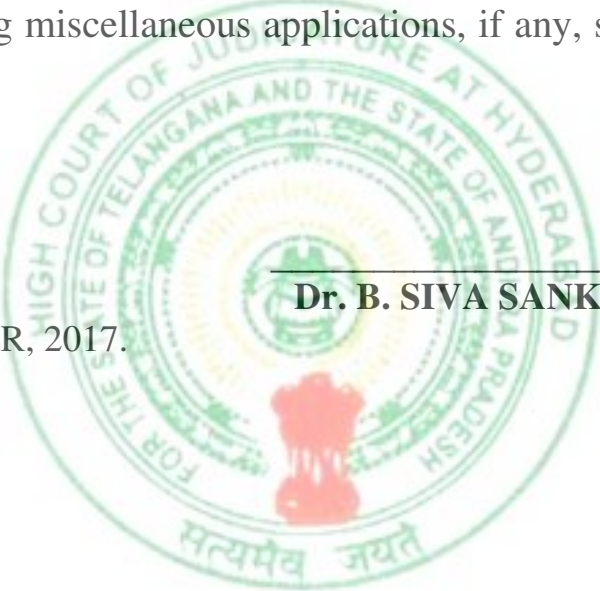
Having regard to the above, there is nothing to quash the proceedings in C.C.No.506 of 2017 but for to say, any observation in dismissal of the petition would no way prejudice the defence of the petitioner/A.4 during trial or the course of hearing on charges.

Accordingly, the Criminal Petition is dismissed.

Pending miscellaneous applications, if any, shall also stand dismissed.

11th OCTOBER, 2017.

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Dr. B. SIVA SANKARA RAO, J