

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2378 of 2016

ORDER:

The complainants, three in number, against two respondents - proposed accused, who are the Tahsildar of Pendurthi Mandal of Visakhapatnam District and Sri Varaha Lakshmi Nrushimha Balavikas Educational Trust, represented by its Managing Trustee, Sri P.V. Ramana, for the offences punishable under Sections 192, 197, 463, 464, 109 and 418 read with Sections 34 and 120-B of IPC and Section 13(1)(d) of the Prevention of Corruption Act, 1988, maintained the private complaint vide D.D.R.No.1465/2016 and it is after recording the sworn statement of complainant Nos.1 and 2 as PWs.1 and 2, the learned Magistrate by following the procedure contemplated under Sections 200 to 204 read with Section 190 Cr.P.C., dismissed the complaint at pre-cognizance stage on two counts, one is previous sanction is mandatory so far as the Tahsildar, Sri C.V.S. Panduranga Reddy, is concerned under Section 19 of the Prevention of Corruption Act and also under Section 197 Cr.P.C. and so far as the second accused trust is concerned, even no offence is made out. It is impugning the same, the present revision is maintained as referred supra.

2) Heard the arguments of both sides at length and perused the material available on record.

3) In fact, the allegation is that the Tahsildar in discharging the public duties committed the alleged offences.

One such is the case of sanction contemplated for the offences under the Prevention of Corruption Act and also the sanction contemplated under Section 197 Cr.P.C. for the IPC is mandatory. Once, there is a bar from the learned Magistrate to take cognizance of the offences supra for want of sanction, so far as the 1st accused – Tahsildar supra is concerned, there is nothing to interfere with the impugned order, but for even there are no merits otherwise so far as the trust is concerned from the common allegation. However, as the cognizance cannot be taken without previous sanction, it is the duty of the complainants from the settled law to apply for sanction and obtain the same and file before the learned Magistrate concerned in the private complaint, pre-cognizance enquiry stage to take cognizance. The earlier dismissal thereby no way a bar, if at all, they apply afresh for sanction and on getting sanction to maintain a private complaint to decide on its own merits in relation to how far the offences that could be made out concerned.

4) Accordingly, the revision is disposed of relying upon the expression of the Apex Court in **State of Karnataka through CBI Vs. C. Nagarajaswamy**¹. It is needless to say that the sanction to accord is to decide on merits.

5) Miscellaneous petitions, if any, shall also stand disposed of.

Dr. B. SIVA SANKARA RAO, J

Date: 07.04.2017
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¹ 2005 (8) SCC 37

