

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRL.P.No.6902 of 2017

ORDER

The petitioner is A1 of C.C.No.1 of 2011 pending on the file of Special Judge for Prevention of Corruption Act for Speedy Trial of Cases of Embezzlement of Scholarship Amounts in Social Welfare Department, City Civil Courts, Hyderabad.

2. It is out come of the police report dated 21.01.1994 of the second respondent, Director of Social Welfare Department, Hyderabad, based on the enquiry report of the Vigilance and Enforcement Department, the police having registered the case in Cr.No.3 of 1994 for the offences punishable under Sections 120-B, 477-A, 409 and 420 IPC against several accused including the petitioner/A1, and after investigation, filed the charge sheet in the year 2011 and the learned Special Judge of the Special Court taken cognizance for the offences from the final report and allotted as C.C.No.1 of 2011. The substance of the accusation from the police final report filed against as many as 28 accused out of 32 accused of whom, some passed away and some of them not charge sheeted in the final report, and even later to it, a few are shown still absconding from the investigation and respective statements is that the accused persons who are the officials of the Social Welfare Department committed criminal breach of trust by fabrication and falsification of accounts and documents with cheating by claiming the scholarships on fictitious names as if of SC students in respect of 95 Educational Institutions (both of Government and private) of Twin Cities of Hyderabad and Secunderabad during the years 1984 to 1987 and embezzled the amount of Rs.83,21,628.91ps. The Investigating Officer,

L.W.144, examined 74 witnesses, who were the Principals of the respective colleges and collected the list of SC students of the said colleges and another Investigating Officer, L.W.143 examined about 51 witnesses including the complainant and another Investigating Officer L.W.142 examined about 5 witnesses, another Investigating Officer L.W.141 examined about 9 witnesses and they collected the relevant documents and records that were audited by L.W.139 whose report is the document No.182 besides document Nos.183-A and 184-A and also the statements recorded under Section 164 Cr.P.C. of L.Ws.61 and 62 and the investigation therefore stated the criminal breach of trust and cheating.

3. The grounds urged in the quash petition of petitioner/A1 are that the very Court constituted is for the speedy trial of the cases of Embezzlement of Scholarship Amounts in the Social Welfare Department and however the above purpose is no way served in the case on hand even the crime registered was in 1994 for the investigation took nearly 16 years till 2011 with no explanation for such inordinate delay in investigation of the allegations of embezzlement relate to the years 1984-87 from the report of the year 1994 of the so called offences of 9 years old to the date of report and for said delay supra the proceedings are liable to be quashed. It is also contended that the departmental proceedings initiated including against the petitioner in the year 1989 itself and the Commissioner of enquiries entrusted with the task has failed to conduct enquiry and subsequently, G.O.Ms.No.191 dated 12.03.1992, was issued withdrawing the appointment of Sri T. Padmanabham and the case was entrusted on Sri S.R.Sukumara, IPS, who was appointed as Second Commissioner of

enquiries and he closed the case due to non-availability of records vide G.O.Rt.No.491 SW(A1) Department dated 02.05.1997, and later, in January, 2000, the Joint Collector, Hyderabad, was with no purpose appointed as Enquiry Officer, who did not complete the enquiry and later in 2003, one Raghava Reddy, Joint Director (SW), was appointed as an enquiry Officer and he has submitted his report stating that except the report of the District Vigilance and Enforcement Officer, Hyderabad, there is no any material touching the charges or to refute the explanations given by the charged officers and as such, the departmental proceedings are to be withdrawn and accordingly, the departmental proceedings were dropped against the petitioner and others. It was subsequently, the charge sheet is filed on the basis of the self-same allegations though the departmental proceedings were closed prior to filing of the final report and without referring to it. Further the petitioner even as per the final report was only working as UD Accountant, and so far as the allegation against him concerned, he along with the wardens of different hostels misappropriated an amount of Rs.7,57,957/- though he is not the competent person to sanction the scholarships or got any control of the funds and thereby he is no way concerned to the sanction and issuance of scholarships and the continuation of the proceedings of C.C.No.1 of 2011 with no merits is nothing but an abuse of process and thereby same is liable to be quashed.

4. Learned counsel for petitioner reiterated the above. Whereas, the learned Public Prosecutor representing the respondent State submits that there is nothing to quash the case proceedings pending trial and thereby sought for dismissal of the petition.

5. Heard both sides and perused the material on record.

6. In fact, earlier, 5th accused filed Crl.P.No.15720 of 2013 to quash the proceedings in C.C.No.1 of 2011 so far as against him concerned and the petition was allowed and he was acquitted with observation, particularly, at paragraph No.5 referring to the expression of the Apex Court in **Vakil Prasad Singh V. State of Bihar**¹, where it was observed that the right of speedy trial, which is an inalienable right to the accused, applies not only in actual proceedings in Court but also the period of investigation and it extends to all criminal prosecutions and Court has to perform the balancing act of taking into consideration of all attendant circumstances and determine whether the right to speedy trial has been denied. In a given case where such a right of speedy trial is allegedly infringed and there, it is open to the Court after considering the relevant facts and circumstances of the case to make appropriate orders, and in **Lokesh Kumar Jain V. State of Rajasthan**² also, it was observed that once the petitioner is exonerated for the same charges in the departmental proceedings due to non-availability of the records, the prosecution against the self same petitioner/accused exonerating in the departmental proceedings, can be quashed. By referring to this, the quash petition of A5 was allowed and A5 was acquitted covered by the order of the learned Single Judge of this Court earlier supra on 10.09.2015.

7. Further, in Crl.P.No.6523 of 2012 maintained by A-21 was also allowed by the self same Single Judge of this Court on 13.07.2015 by

¹ 2009(3) SCC 355

² 2013(11) SC 130

quashing the proceedings and acquitting the accused by referring to the judgments supra.

8. Further, another Crl.P.No.10746 of 2015 filed by A-27 and A-28 and A-7 together was also allowed by quashing the proceedings and acquitting them on 16.03.2016 by the self-same Singe Judge of this Court by referring to the earlier two orders of this Court.

9. Further, in another Crl.R.C.No.2883 of 2015 filed by A8, A12 and A14 against dismissal of their discharge application in the self-same case, by the order of another Bench of this Court dated 05.08.2016, the revision was allowed and the accused were discharged by referring to the two expressions of the Apex Court and the earlier orders passed by this Court supra.

10. Further more, in Crl.R.C.No.2159 of 2015 filed by A9 of seeking to quash the proceedings, the revision was also allowed and A9 was discharged from the C.C.No.1 of 2011 by referring to the two judgments of the Apex Court.

11. No doubt, it is not only for mere delay in prosecution but also in the departmental enquiry for no records, the respective accused were exonerated and on that count also as held in **Lokesh Kumar Jain's** case (supra), the proceedings in C.C.No.1 of 2011 were quashed against them.

12. Having regard to the above and in view of the facts and circumstances supra, there is nothing to continue the proceedings against any other accused including the petitioner-A1 for no material outcome of the Vigilance and Enforcement Report with the departmental

enquiry even available to continue the prosecution apart from inordinate delay in the report, investigation and even trial of the case.

13. Accordingly and in the result, the Criminal Petition is allowed to sub serve the ends of justice by quashing the proceedings of C.C.No.1 of 2011 on the file of Special Judge for Prevention of Corruption Act for Speedy Trial of Cases of Embezzlement of Scholarship Amounts in Social Welfare Department, City Civil Courts, Hyderabad, not only against the petitioner/A1 but also against other accused though they are not parties.

14. Miscellaneous petitions, if any, pending in this petition shall stand closed.

7th September, 2017
sj

Dr. B. SIVA SANKARA RAO, J

