

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.172 of 2017

ORDER:

The revision petitioners are A2 and A3 of C.C. No.180 of 2016 on the file of XII Additional Chief Metropolitan Magistrate, Hyderabad. Crime No.235 of 2015 was registered by the C.C.S., DD, Cyber Crimes Station, Hyderabad against three accused including them for the offences punishable under Sections 506 and 385 of IPC, on the report of one Suru Srinivasa Rao, Chief Financial Officer, M/s.Kakinada SEZ Private Limited, Administrative Office at Begumpet, Hyderabad. The crime registered was on 15.07.2015. A1 is one Chalasani Sathya Bhaskar not among the revision petitioners. A2 and A3 by names are Yeleti Gopala Krishna and Smt.V.L.Jayaprada Devi, aged about 70 and 80 years respectively of East Godavari District.

The police after investigation, filed charge sheet against them for the said offences by showing the property seized one laptop, one mobile phone shown in Form No.66. The charge sheet cites eleven witnesses including the investigating officer – LW11, Inspector of Police, Cyber Crimes, CCS, Hyderabad. LW1 is the complainant, LW2 is one Sreedhar Pothukutchi, Vice President of GMR, LW3 Yarlagadda Sudheer, Vice President of KSEZ, LW4 Boda Venkata Nageswara Rao, Business Head, LW5 Challa Prasanna, President of Kakinada SEZ of GMR, LW6 Inapurapu Suryanarayana, Social Worker, Secretary KSEZ, LW7 Behara Yerram Raju, Consultant and Economist, LWs.8 and 9 Balakrishna Tirumala and Jatavath Chandu, LW10 K.N.Swamy, Scientific

Officer, APFSL. Among those, LWs.8 and 9 supra cited as pancha witnesses and LWs.2 to 7 as circumstantial witnesses.

The final report reads in nutshell that the accused, for SEZ lands, adopted tactics of extortion and criminal intimidation. The KSEZ covered area of two mandals U.Kothapalli and Thodangi of Kakinada, East Godavari District, spreading over an approximate area of 10,500 acres. In July, 2014, Chalasani Sathya Bhaskar (A1) of M/s.AVI Natural Resources Private Limited (a delta group company), whose office is located at plot No.1056/1, road No.45, Jubilee Hills, Hyderabad, approached KSEZ for allotment of land to set up agri park and started putting undue pressure for 300 acres though from the evaluation he needs only 150 acres and he threatened KSEZ to unleash vilification campaign and he (A1) in collusion with Eleti Gopala Krishna who is father-in-law (A2) and Smt. Jayaprada Devi is grand mother (A3) got PIL No.274 of 2014, filed in High Court through KSEZ Vyathireka Porata Committee with quoted RTI Notification in an un-related fashion and later approached the company and offered to assist in getting PIL withdrawn in the event of KSEZ allotting 750 acres land at abnormally lower price and circulated copies of said PIL to the bankers and lenders of KSEZ, apart from other statutory agencies to create prejudice against the KSEZ to succumb his extortionist tactics by criminal intimidation of KSEZ and KSEZ countered the allegations in the PIL by not succumbing to them and the said Bhaskar further threatened that he would harm KSEZ and its promoters by resorting to communication through mail and surrogate means by designing the communication in such a way to cast aspersions on the intent of the company and the said

Bhaskar for the SEZ not succumbed, started sending communications by SMS that in the event of KSEZ allotting land as per his terms, the proceedings against KSEZ can be sorted out which show under guise of initiating legal proceedings against KSEZ with distorted information, he resorted to the tactics of extortion by criminally intimidating KSEZ and hence the report.

From the report of investigation it revealed from A1 mail dated 29.07.2014, of his approaching KSEZ for allotment of land to set up agri park with 700 crores investment and sought for sale of 300 acres of land in favour of his company – AVI Natural Resources Private Limited and another mail dated 14.08.2014, speaks if mortgaged to banks, land should be un-encumbered by banks on day of lease agreement and asking for undertaking from KSEZ and its promoters who have pledged to do so and another mail dated 18.08.2014, speaks about the specifics of agri park proposed to be set up and lease terms/sale terms recourse protection on land and another mail dated 20.08.2014, in the communication of KSEZ are found in need by AVI Natural Resources Private Limited, only 150 acres and the reply of A1 Bhaskar for 300 acres again and another mail dated 23.11.2014, speaks about the accused seeking the services of KSEZ limited to facilitate to the proposed industries for 750 acres and another mail dated 23.11.2014, in seeking 750 acres for AVI Natural Resources Private Limited and another whatsapp chatting for 423 acres of land for lease for 99 years referring the Court matter settlement to do, as discussed earlier, in saying status-quo only after agreement is signed and these mails were collected through investigating officer and LWs.2 to 7 supra stated in reference there to and

pursuant to which the investigating officer on 10.09.2015, conducted search and seizure in the office of A1 M/s.AVI Natural Resources Private Limited and seized his mobile and lap top through mediators and referred to FSL and received opinion from LW10 scientific officer. The charge sheet further speaks A1 filed petition dated 17.10.2015 that KSEZ and GMR are harassing and intimidating him by filing frivolous complaint for which GD entry made.

It is there from on the final report the learned Magistrate taken cognizance of the offences under Section 506 and 385 of IPC. No doubt the cognizance order of the learned Magistrate simply read "taken on file under Sections 506 and 385 of IPC against accused in order to issue summons to A1 to A3 by posting it on 22.06.2016", the cognizance order is not with any details as pointed out by the learned counsel. It is not a quash petition on the cognizance order, it is after cognizance taken in the course of hearing before the parties, the revision petitioners A2 and A3 filed CrI.M.P.No.4789 of 2016 before the learned Metropolitan Magistrate for discharge.

It is after hearing, the learned Magistrate dismissed the discharge application covered by the impugned order which reads from para Nos.11 to 17 that it is LW6, I.Suryanarayana, that filed PIL No.274 of 2014 and the same when dismissed for default and restored and thereafter he withdrew the same and later A2 and A3 independently filed another PIL and to say that A1 got filed the PIL through A3 in collusion with A2. As per the accused, there is no basis and in filing the PIL, no criminal intimidation can be attributed against A3. The charge sheet and the supporting

material from the statements of witnesses show there is *prima facie* accusation and the petitioners already referred CrI.P.No.12412 of 2016 in this Court for quashing the cognizance order and the same was disposed of with a direction to dispose of the case within six months, without insisting presence of A2 and A3.

The revision maintained impugning the dismissal order of the Magistrate with the contentions that entire final report no way discloses any offence against the petitioners who have nothing to do with A1 and his AVI Natural Resources Private Limited. The A3, merely because maternal grand mother of A1, by courtesy she cannot be roped while implicating A1 in the criminal case, that too when she is aged above 80 years and resident of Rajahmundry, whereas A2 resident of Kakinada and as per the charge sheet A1 is resident of Jubilee Hills and there is no basis to say the PIL filed is to help A1 and the first PIL No.274 of 2014 was filed infact by LW6, I.Suryanarayana, who is the Convenor of KSEZ Vyathireka Porata Committee, a law graduate and an advocate along with five others. Earlier there was a W.P. (PIL) No.28056 of 2008 in the High Court filed in relation thereto. A3 is a social worker when she filed PIL No.84 of 2015 against self same KSEZ, what the High Court ordered on 04.07.2016 is to make representation to concerned officials and to dispose of the representation expeditiously there from. Thus, she is no way concerned with the criminal case or any mails of A1. None of the prosecution witnesses stated anything against her to the alleged crime by A1 much less, to implicate under Section 506 or 385 of IPC so also against A2.

The learned counsel for revisions petitioners reiterated the same. The learned public prosecutor representing the State

submits that there is nothing to interfere with the cognizance order of the Magistrate and impugned order dismissing the discharge petition.

Heard. Perused the material on record.

The order of the learned Magistrate in dismissing the discharge application and in taking cognizance, there is no whisper by discussing any material. Even the E-Mail communication from the statement of the witnesses show correspondence between KSEZ of GMR and A1 only. There is nothing to show A2, A3 under their control or A1 got filed through them and there is no direct witness to speak A3 or A2 corresponding with complainant entity or approached under the guise of the PIL for any benefit to A1, even to say any of their complicity to the crime. But for if at all any material against A1 from the above, there is nothing against A2 and A3. In the absence of which, mere filing of PIL cannot make them to be roped as co-accused with A1; that too in the year 2014, there were two PILs filed by KSEZ Vyathireka Porata Committee consisting of five or six persons and also by another person including LW6 and when they are not implicated, merely because A3 happened to be a distant relative to A1, there is no basis, but for if at all to say, A2 happened to be father-in-law of A1 and that is not even a basis to implicate A2 without any factual foundation to show his complicity to the alleged crime. Thereby the taking of cognizance is unsustainable so also in dismissing the discharge application. The earlier filing of the quash petition and direction for earlier disposal of the criminal case is different, that does not mean no charges can be framed or in the course of

hearing charges, where there is no material, no discharge can be ordered.

Having regard to the above and in the result the revision is allowed, the order of the Magistrate dismissing the discharge application is set aside and the petitioners A2 and A3 are discharged from the final report and cognizance taken against them is set aside for no material to frame any charges against them to put them to trial, much less for the offences punishable under Sections 506 and 385 read with Section 34 of IPC, along with A1. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

Date:09.02.2017
vhh

Dr. B.SIVA SANKARA RAO J,

