

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.9389, 9404, 9443, 9423 and 9424 of 2017

COMMON ORDER:

These criminal petitions are filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in F.I.R.No.60 of 2017 on the file of Duttaluru Police Station, SPSR Nellore District, registered for the offences punishable under Sections 420, 409 and 120-B read with 34 of I.P.C.

The petitioners in all the petitions are the accused Nos.1, 2, 9, 18 and 19 in F.I.R.No.60 of 2017 on the file of Duttaluru Police Station, SPSR Nellore District. Hence, I would like to dispose of all the petitions by common order.

For convenience sake, the facts as narrated in Crl.P.No.9389 of 2017 are taken into consideration.

Crl.P.No.9389 of 2017:

The F.I.R.No.60 of 2017 on the file of Duttaluru Police Station was registered based on the report of Project Director, District Water Management Authority, whereunder the Project Director directed the petitioner herein to deposit Rs.65,95,932/- within ten (10) days from the date of order, alternatively to initiate criminal proceedings under Revenue Recovery Act for recovery of Rs.65,95,932/-, but the order was challenged in Writ Petition No.28828 of 2017 to set aside the order, which is the basis for registration of present crime. However, this Court directed to treat the said order as show-cause notice while permitting the petitioner to submit explanation within three (3) weeks from the date of order, on such submission, respondent No.4 therein was directed

to consider the case of the petitioner and pass appropriate orders in accordance with law.

As on today, the order passed by the Project Director, District Water Management Authority is no more in existence in view of the order passed in W.P.No.28828 of 2017. The order in W.P.No.28828 of 2017 was passed on 08.09.2017, wherein three (3) weeks time was granted to file explanation and thereafter Project Director, District Water Management Authority was directed to consider and pass appropriate orders and if the petitioner does not cooperate in the matter, it is open for the Project Director, District Water Management Authority to take appropriate action against him. Therefore, necessarily Project Director, District Water Management Authority shall wait for three (3) weeks and in case no explanation was filed, the Project Director, District Water Management Authority is entitled to initiate proceedings. Here, according to the petitioner, he filed explanation, but no orders were passed so far. Therefore, lodging of report with the police based on the report dated 26.07.2017 before expiry of three (3) weeks as specified in Writ Petition No.28828 of 2017 is illegal. Therefore, the F.I.R.No.60 of 2017 on the file of Duttaluru Police Station, SPSR Nellore District is quashed by exercising power under Section 482 of Cr.P.C.

In the result, this criminal petition is allowed and the F.I.R.No.60 of 2017 on the file of Duttaluru Police Station, SPSR Nellore District is hereby quashed against the petitioner herein/accused No.1. No costs.

However, liberty is given to the respondent No.2 to take appropriate action after passing order in accordance with law by

Project Director, District Water Management Authority as directed in W.P.No.28828 of 2017. This order will not preclude the respondent No.2 to lodge a separate independent report with the police based on the order passed by the Project Director, District Water Management Authority after considering the explanation submitted by the petitioner herein.

Crl.P.Nos.9404, 9443, 9423 and 9424 of 2017:

Though the petitioners herein are accused Nos.2, 9, 18 and 19 and challenged the impugned proceedings in different writ petitions, this Court passed different orders directing to maintain *status quo* till the disposal of the appeals filed by the writ petitioners therein. The complaint lodged against all the petitioners is one and the same based on the same impugned proceedings. When the impugned proceedings were set aside against accused No.1 by this Court in Writ Petition No.28828 of 2017, the same yardstick is to be applied to the present petitioners since the allegations are similar, for limited purpose of deciding these petitions.

As the F.I.R.No.60 of 2017 on the file of Duttaluru Police Station, SPSR Nellore District is quashed in Crl.P.No.9389 of 2017 against accused No.1, these petitions are also liable to be allowed and the F.I.R.No.60 of 2017 on the file of Duttaluru Police Station, SPSR Nellore District is hereby quashed against these petitioners/accused Nos. 2, 9, 18 and 19. No costs.

However, liberty is given to the respondent No.2 to take appropriate action after passing order in accordance with law by Project Director, District Water Management Authority. This order will not preclude the respondent No.2 to lodge a separate

independent report with the police based on the order passed by the Project Director, District Water Management Authority after considering the explanation submitted by the petitioners herein.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

29.11.2017
Ksp

