HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5486 of 2017

ORDER:

The petitioners are the A.1 and A.2 in Cr.No.379 of 2017 on the file of the KPHB police Station, Cyberabad registered for the offences punishable u/sec.420,467,468 and 471 r/w 120-B IPC, which is outcome of the report of the 3rd respondent. Now the petitioners are seeking to quash the proceedings in the Crime supra.

It is the main contention of the learned counsel for the petitioners/A.1 and A.2 in support of the quash petition grounds that the self-same complainant almost for self-same facts earlier lodged report before the Police, Jinnaram of Medak District in Cr.No.115 of 2015 dt.25.06.2015 registered for the offences u/sec.420 and 468 IPC, and after investigation, police filed final report and the learned Magistrate taken cognizance for the offences and trial is in progress. That offence proper as per the submission including as per the quash petition ground No.3 is with an allegation of the defacto-complainant and A.1 started business in the name of the RMS Research Labs(P) Limited (for short, 'the company') at Domadugu, Jinnaram of Medak district in the year 2001 and A.1 started showing losses and A.1 forged signatures of the complainant for transfer of shares and for obtaining loans from Laxmi Vilas Bank and Sundaram Finance which he came to know later as forged. The Jinnaram police transferred the case to the CID, EOW, and investigated the crime having sent the alleged forged signatures in relation to the sanction of loans for the years 2004 and 2005.

It is one of the submissions therefrom that in the earlier investigation of Cr.No.115 of 2015 supra, there was thus opinion of the handwriting expert, dt.26.10.2017 in the crime stage pending investigation. It is one of the contentions that in the present case, the defacto-complainant again wants to take specimen signatures and send to an expert for opinion and same contention does not arise in view of the earlier opinion in relation to self-same documents. However, the contention of the learned counsel for the 3rd respondent-defacto-complainant that the scope of the disputed signatures covered by the earlier crime and the present one sought are entirely different and there is nothing to quash the proceedings much less interdict the investigation and the stay granted by this Court exparte on 11.07.2017 in force is to be vacated. The learned Public Prosecutor representing the State also submits the same by saying it is the duty of the police to investigate including any overlapping of facts and they are going to investigate in the area not covered by the earlier crime.

It is necessary now to consider the contents of the present report registered as FIR in Cr.No.379 of 2017 (which is sought for quash). As per the report the complainant, the A.1 started the company in the year 2001 registered in 2002 January, with the Registrar of the Companies. The company supra has 25 Reactors with licence to manufacture bulk drugs provided in 5 Acres of land in Damadugu, mainly manufactures Omaprazole, Lansaprazole, active intermediaries and other APIs etc. Initially company was running in a profit during 2004-05. However, for 2005-06, A.1 started showing losses and when the complainant suspected and came to know the criminal intention and wrongful gain of A.1 in manipulating records of profit making company showing in losses and from that probe found that A.1 and A.2 forged signatures of the complainant in the bank records of Laxmi Vilas Bank with active connivance of A.3 and got sanctioned new term loans and increased the cash credit limit worth more than 55 lakhs and said facts are confirmed by 'Truth Labs' that the signatures during 2004-05 on the loan documents are forged and not signed by the complainant as in the year 2002-03 and other standard documents. It is averred that the accused swindled the amounts having common concert with A.3-Manager of the Bank, being parties to criminal conspiracy and forgery and in cheating the complainant as well as the bank and the A.1 is still continuing illegal transactions with the bank and purchased vehicles for the personal use from the loan amounts and all the accused thereby liable for the offences apart from other allegations of criminal intimidation and threats and destroyed the company assets like reactors etc., and not paying bank loans by committed default making the Company NPA to take over its assets by bank. It is also averred that A.1 and A.2 secretly opened other bank(SBH) accounts in the company name and deposited lot of company monies into it and siphoned from here without knowledge of the complainant. Hence to take action.

On perusal of the report which is under investigation not only confined to the earlier facts but also something more including from subsequent causes of action. Thus, it is not a fit case to quash the proceedings with that contention of the accused persons 1 and 2.

So far as the sending of the signatures disputed with the admitted and available for getting another report concerned, if at all the police want as part of their investigation, there is nothing to interdict and that itself cannot even be made a basis or a ground to quash the crime or to stall the investigation. It is not even a prayer to refer the Cr.No.379 of 2017 also to the CID EOW who earlier investigated in relation to some of the facts between the parties, as such there is nothing to interdict the investigation. If at all it is for the self-same crime facts for the self same investigation, the second report at best can be taken with value of Section 161 Cr.P.C. and not of section 154 CrPC. However, the law is settled at least from the 3 Judge Bench expression of the **Upkar Singh vs Ved Prakash**[1] of there is no absolute bar for second report and investigation if there are any additional facts of the second crime. It is needless to say to observe the petitioners are at liberty to submit to the police of the present crime investigation, the earlier FSL report for their reference if at all to make it as part of the investigation material and therefrom to consider any further necessity of their getting any handwriting for opinion for any of the documents in dispute.

Having regard to the above, for there is nothing to interdict the investigation, **the petition is disposed of**, however with observation of not to arrest the petitioners/A.1 and A.2 in view of the earlier protection order pending investigation. However, the police as part of the investigation are entitled to the presence of the petitioners/A.1 and A.2 for the purpose of investigation in case of necessity. The police are further directed to complete investigation at the earliest. All defences of the petitioners/A.1 and A.2 are left open. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:14.09.2017
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[1] AIR 2004 SC 4320