

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

CRIMINAL PETITION Nos.6781 of 2015 & 7201 of 2017

COMMON ORDER:

In Cr1.P.No.6781 of 2015, the accused Nos.1 to 3 are the petitioners herein seeking to quash the crime No.132 of 2015 of Madanapalle Taluk Police Station, Chittoor District, which is outcome of report of respondent Nos.2 & 3, defacto complainants therein. The above crime registered was for the offence punishable under Sections 120-B, 420, 307, 506 r/w 34 IPC. The contents of the report of defacto complainants by name Ramamohan Reddy and Sasivardhan Reddy read that in 2003, the 2 defacto complainants and some of their relatives one Samson Sanjeev Rao, C. Ramesh Kumar Reddy (A.1), C. Suresh Kumar Reddy (A.2) brother of A.1 formed into executive committee members all 9 in number and general body members another 4 in number as Society with name and style of Vaagdevi Educational Society by registered the same with the District Registrar, Chittoor, bearing No.495/2003 of whom A.1-Ramesh Kumar Reddy is the Treasurer and A.2-Suresh Kumar Reddy, Committee Executive Member. It is further averred that the society started in 2003 some more entities near Madanapalle at Gagannagaripalle, Sri Krishna Chaitanya Anu Pharmacy, Nursing and Pschyiotherapy colleges. The accused Nos.1 & 2 were removed from the executive committee due to their fraudulent activities subsequently on 19.11.2006 and in their place one T. Sharadamma and B. Sarsatamma were included, from that the accused persons developed ill-will and with animacity to grab the college management and society administration created false resolutions by forging the signatures of the complainants and removed the complainants and other relatives of them and added 9

persons additionally and shown A.1-Ramesh Kumar Reddy as if correspondent pursuant to the false resolutions and shown to the District Registrar the forged fake resolutions by sending in scan and Xerox and shown as if the investment of Rs.6,000/- though it is one acre and cause renewed the registration. On knowing it, the complainants approached the District Registrar and renewed their society by disclosing the facts and in this regard Ramesh Reddy and others crime No.95 of 2007 for the offence punishable under Section 420 IPC etc., were registered against them and there are civil cases vide No.94 of 2007 and 150 of 2009 also filed which are pending in Madanapalle Courts. It is while so, A.1 and A.2 supra along with their follower A.3 Bala Chandra Reddy with unsocial elements joined hands tried to take possession of the college premises and management, but could not and they also made several false complaints to the Education Department, JNTU and the affiliated college etc., to trouble them one way or the other and by putting unlawful demand of payment of Rs.3 crores to them with a threat to do away. It is while so, a month prior to the date of report dated 06.07.2015 while the college correspondent Sasivardhan Reddy, 2nd defacto complainant in the college, A.1 to A.3 along with some unsocial elements again threatened demanding Rs.3 crores else to do away them with a warning to kill them soon. It is as part of their plan, they made a plan that has come to light from the detection of Kadiri police of Anantapur District and flashed in the print media on 28.06.2015 and same is confirmed when the defacto complainants enquired with Kadiri Rural Inspector of Police and about their registration of a case against several and arrested 11 persons (which is subject matter of

crime No.47 of 2015 dated 27.06.2015 of Kadiri Rural Police Station covered by C.C.No.535 of 2017 on the file of Judicial First Class Magistrate, Kadiri, subject matter of quash petition No.7201 of 2017 sought for quashing against A.1 herein by name C.Ramesh Kumar Reddy as A.15 therein). While so, on 05.07.2015 the interrogation of 11 persons arrested disclosed about the said nefarious plan of accused to do away one Krishna Reddy, the brother in law of the defacto complainants in order to create fear and panic and to collect Rs.3.5 crores and to pay 40% therein to hired assailants whose names also came to light, hence to take action.

It is the said report registered as crime No.132 of 2015 sought for quashing. In the course of hearing, the counsel for the quash petitioners filed with memo in USR No.6153 dated 13.10.2017 the final report of Madanapalle Taluk Police filed in the said crime No.132 of 2015 it speaks that on receipt of the report dated 06.07.2015 from the defacto complainants and after registration of the crime and in the course of investigation having examined said Ramamohan Reddy and Sasivardhan Reddy among others total 6 witnesses and recorded their statements and visited the alleged scene of offence and also visited Kadiri Rural Circle and ascertained the details of accused Nos.4 to 14 of crime No.47 of 2015 of Kadiri Taluk Police Station and verified the record including the confession statements about involving in hatching plan to eliminate one Krishna Reddy and the investigation disclosed that A.1-Ramesh Reddy and his brother A.2-Suresh Kumar Reddy being Ex-treasurer and E.C. member of Vaagdevi Educational Society with common intention to cheat the

complainant Ramamohan Reddy, President of Vaagdevi Educational Society and created false resolutions by cause renewed the society and there are civil cases and criminal cases pending in Madanapalle Court etc., facts detailed in the report, however there is a delay in giving report of about one month and the investigation further shows that there are no specific allegations against A.2-Suresh Kumar Reddy and A.3-Bala Chandra Reddy, but for against A.1-Ramesh Kumar Reddy in filing the charge sheet. As the prosecution was already launched by SHO Tanakal Police Station and charge sheet filed against them for conspiracy covered by C.C.No.535 of 2017 pending on the file of JFCM, Kadiri, where A.1-Ramesh Reddy was figured as A.15 with regard to forgery of college documents and threatened the defacto complainants etc. The facts in the complaint were thereby mistakenly mentioned and can be referred as mistake of fact in so referring. Therefrom it clearly shows there are no specific accusation from the police investigation in crime No.132 of 2015 against A.2 & A.3, but for against A.1-Ramesh Kumar Reddy. However, the fact remains for the same facts already C.C.No.535 of 2017 is pending on the file of JFCM, Kadiri, where Ramesh Reddy was already arrayed as A.15 and the said case registered in crime No.47 of 2015 of Kadiri Rural Police Station dated 27.06.2015 is for the offences punishable under Sections 147, 148, 120-B, 379 r/w 149 IPC and Section 25 (1-B) (a) of Indian Arms Act, Section 35 of WALTA Act r/w Rules of WALTA Rules.

From the above once the police final report filed in crime No.132 of 2015 as mistake of fact, there is nothing to quash the proceedings, but for if at all any protest filed by the defacto

complainants therein are differing to the police opinion any taking of cognizance by the learned Magistrate remedy is left open to the petitioners to file a fresh quash petition impugning the cognizance order and other material by filing Part II case diary also.

With these observations, CrI.P.No.6781 of 2015 can be disposed of. Accordingly, the same is disposed of for no crime pending from the referred report.

Coming to CrI.P.No.7201 of 2017, said Ramesh Reddy (A.1 of crime No.132 of 2015 covered by the referred report) is A.15 of C.C.No.535 of 2017 and he is seeking to quash the cognizance order of the learned Magistrate from the police final report covered by crime No.47 of 2015 supra. His contentions are that the defacto complainants R.2 & R.3 by name B.Sasivardhan Reddy and K. Purushottam did not name the petitioner Ramesh Reddy-A.15 or otherwise so also another A.16, but for implicated in the course of investigation from the statements of Lws.7 & 8 by showing them in abscondence for the learned Magistrate taken cognizance in issuing NBW against them with reference to the dispute of Vaagdevi Educational Society and same covered by crime No.132 of 2015 supra and O.P.No.94 of 2007 and crime No.95 of 2007 referred supra saying there is confession and disclosure by A.1 to A.11 about committing theft of sand on river beds unauthorizedly by transporting for wrongful gain through tippers and A.13 and A.14 and A.1 having country made tapanche without license and but for the statements of Lws.7 & 8 subsequently implicating the petitioner as A.15 besides A.16 there is no material and the taking of cognizance by the learned Magistrate is held unsustainable, thereby sought for quashing.

In the statement of LW.7-Bala Srinivas Reddy, during investigation of crime No.47 of 2015 of Tanakal Police Station of Anantapur District, is stated that he came to know of the plan, when on some work went to Anantapur and while returning to Kadiri and he came to Madanapalle and after knowing about nefarious plan through news covered by the print media he is disclosing the same and LW.8-K.Purushotham also speaks the same and there is no other material to show complicity of A.15 in crime No.47 of 2015 covered by C.C.No.535 of 2017 for the learned Magistrate to take cognizance, hence taking of cognizance and the proceedings with the trial of the case against the petitioner/A.15 is unsustainable, but for to say during trial if at all any evidence come forward it will not prevent the power of the learned Magistrate to include the accused under Section 319 Cr.P.C. as co-accused.

Accordingly and in the result, (a) CrI.P.No.7201 of 2017 is allowed by quashing the proceedings, however by giving liberty in the event of during trial any material available from evidence about the complicity to include as co-accused therefrom as per Section 319 Cr.P.C., and (b) CrI.P.No.6781 of 2015 is disposed of for no crime pending from the Police referred report and if at all any cognizance taken including from any protest in future, remedies left open to impugned subject to merits.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 01.11.2017
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