

IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF TELANGANA
AND ANDHRA PRADESH AT HYDERABAD

MONDAY THE EIGHTEENTH DAY OF DECEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL PETITION NO. 3108 OF 2011

Between:

K. Ramakrishna ... Petitioner/A-2

V/s.

The State of Andhra Pradesh
Represented by Public Prosecutor
High Court, Hyderabad & Anr. ... Respondents



Counsel for Petitioner : Sri C. Sharan Reddy

Counsel for Respondents : Public Prosecutor [AP]

The court made the following : [order follows]

HONOURABLE SRI JUSTICE P. KESHAVA RAOCRIMINAL PETITION NO. 3108 OF 2011**ORDER:**

Heard the counsel for the petitioner as well as the learned Public Prosecutor appearing for the first respondent State.

2. Though notice is served on the second respondent, none appeared on his behalf.

3. The facts of the case are that originally on 01/11/1997, the Divisional Co-operative Officer, Eluru, West Godavari district, filed a complaint before the Station House Officer, Pedavegi Police Station, stating that Sri K.G.R.V. Chowdary, Ex-President of Koppaka, Primary Agricultural Co-operative Society Limited, Koppaka, involved in misappropriation of funds of the society to a tune of Rs.3,49,345=00 and sought appropriate action, but, however, no action was taken. On transfer of the said person, LW-2 Sri Ch. Satyanarayana, who came to be the next Divisional Co-operative Officer, Eluru issued a reminder dated 21/12/1997 for taking action against A-1 and others concerned. It appears

that in pursuance of the said reminder, a crime was registered vide Crime No.117 of 2008, dated 24/6/2008, for the offences punishable under section 409, 109 read with section 34 IPC. Pursuant to the registration of the said crime, investigation is conducted and charge sheet is filed by the Inspector of Police, Pedavegi Police Station before the Judicial Magistrate of First Class [Excise], Eluru, West Godavari district. The court below after taking cognizance of the same, numbered the case as CC.No. 470 of 2010. Aggrieved by the same, the present Criminal Petition is filed.

4. The counsel appearing for the petitioner would contend that the petitioner has been falsely implicated in the case and he has not committed any offence much less the offence as alleged against him. That apart, a perusal of the charge sheet would not indicate any prima facie case is made out since there is no specific allegation against this petitioner except a bald statement that on all the occasions the involvement of the petitioner herein being the Secretary is also there, and therefore, he is liable for the offence punishable under section 109

of IPC. The counsel for the petitioner would also contend and brought to the notice of this Court that when the matter was placed before the General Body of the Society, as per Resolution No.12, dated 28/03/2002, it was resolved to write off the amount to a tune of Rs.2,52,245=00 and resolved to recover the amount of Rs.97,100=00 from A-1, who was the President of the said Primary Agricultural Co-operative Society. On 25/04/2003, A-1 deposited the said amount into the said society. In those circumstances, A-1 filed Criminal Petition No. 1912 of 2011 in this Court. This Court, after appreciating the matter was pleased to allow the said Criminal Petition and quashed the proceedings initiated against A-1 in CC.No. 470 of 2010 by orders dated 27/11/2017. In the said orders this Court was pleased to observe that after deposit of Rs.97,100=00 pursuant to the Resolution No.12, dated 28/03/2002, the Society has exonerated A-1 and requested to drop all further action against the petitioner. Accordingly a report was also sent to Pedavegi Police Station on 01/11/1997 to that effect. In those circumstances, since charge sheet was filed in the year 2008 long after

the amicable settlement of the issue in the year 2003 and since the period of misappropriation relates between 27/01/1992 and 21/01/1995 and the crime was registered in the year 2008 and the charge sheet was filed seven years after the settlement and thirteen years after misappropriation, the proceedings initiated against A-1 were quashed. Basing on the said orders, the counsel for the petitioner would contend that the petitioner stands on a better footing on the ground that he has not committed any offence and no specific allegations are made against him in the charge sheet.

5. A perusal of the contents of the charge sheet and the material enclosed thereto include orders of this Court in Criminal Petition No. 1912 of 2011 dated 27/11/1997, this Court feels that no case is made out against the petitioner herein in the charge sheet filed by the prosecution. Coupled with the same, as observed by this Court in Criminal Petition No. 1912 of 2011, there is enormous delay in registration of the crime after the said misappropriation by A-1 and as there was a settlement between A-1 and Primary Agricultural Co-operative Society Limited,

Koppaka, which fact was already communicated to the Pedavegi Police Station on 01/11/1997 itself. The continuation of the proceedings against the petitioner in CC.No. 470 of 2010 would amount to abuse of process of court and more particularly asking the petitioner herein to undergo criminal proceedings where there is no chance of any conviction against him. Therefore, this Court is of the considered opinion that no useful purpose would be served in continuation of the proceedings against the petitioner and accordingly the proceedings initiated against the petitioner are liable to be quashed.

6. Accordingly, the Criminal Petition is allowed and thereby the criminal proceedings initiated against the petitioner in CC.No. 470 of 2010 on the file of the Court of Special Judicial Magistrate of First Class [Excise], Eluru, West Godavari district are quashed.

7. As a sequel, miscellaneous petitions if any, pending in this criminal petition shall stand closed.

JUSTICE P. KESHAVA RAO.

HONOURABLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL PETITION NO. 3108 OF 2011
[A L L O W E D]



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