* SMT JUSTICE T. RAJANI

+CRLP.No.1778 of 2013

% Dated: 20.12.2017

D.B.Suresh Babu

... PETITIONER

AND

$ State, represented by SHO, Kavali Rural P.S., rep. by Public Prosecutor and another

... RESPONDENTS

! Counsel for Petitioners : MR. N.BHARAT BABU

^ Counsel for Respondent : PUBLIC PROSECUTOR

<GIST :

>HEAD NOTE:

? Cases referred:

1. AIR 2010 SC 840

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.1778 of 2013

ORDER:

This petition is filed seeking for quashment of the proceedings against the petitioner in C.C.No.528 of 2012 on the file of Additional Judicial Magistrate of First Class, Kavali. The offences alleged are under Sections 465, 467, 468, 471 and 420 IPC.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for respondent No.1. None appears for respondent No.2 in spite of notice.

3. The complaint is filed against the petitioner with the following allegations:

The petitioner intended to establish Engineering College at Maddurupadu Village of Kavali Mandal. As per the norms laid down in clause 13.5 of All India Counsel for Technical Education (AICTE), a new Engineering and Technology College is required to have funds of Rs.1 crore for building and Rs.1 crore for equipment and Library, at its disposal, for stating a new college, besides an amount of Rs.35 lakhs in Joint FDR. The accused, who was having meagre amount in the current account of Indian Bank, Kavali Branch, Kavali, on behalf of the Society i.e.., D.S.Naidu Educational Society, orchestrated a plan to create forged documents. In pursuance of his plan, he created forged document i.e., letter, dated 24.12.2008, purportedly issued by the Indian bank, Kavali Branch, addressed to the Member

Secretary, AICTE, New Delhi, certifying that M/s.Damisetty Srinivasa Naidu Educational Society, Kavali was having balance of Rs.2,46,34,500/- in their Current Account, in support of its fund position and also created some other forged documents in respect of his account. The accused enclosed copy of the said forged letter dated 24.12.2008 issued by the Indian Bank, for grant of approval. The application was forwarded and believing the said documents, approval was given after hearing the accused. A fake letter purportedly issued by the Indian Bank dated 23.02.2009 was also produced by the accused, wherein it was certified that their Society had balance of Rs.1,89,76,600/-. The accused obtained consent letter from Andhra Bank, Kavali Branch, in which LW5 provisionally agreed to sanction a loan of Rs.5 Crores. Having believed the said documents, the letter of approval was given on 30.06.2009. Later, a case was registered at CBI, ACB, Visakhapatnam, on the allegation that some unknown officers of AICTE, in collusion with the management of the Educational Societies, granted approval for establishment of Engineering Colleges and CBI submitted a report to the higher authorities of AICTE for taking necessary steps to lodge a complaint against the Secretary and Correspondent.

4. Now the argument of the petitioner's counsel is two fold. The first ground, on which quash is sought for, is that the petitioner is not the person who signed on the disputed letter and the person, who signed on the said letter, is not brought to book for the alleged offence and this petitioner is only Secretary and Correspondent, who handed over the letter to the AICTE,

without knowing as to whether the said letter is genuine or forged. The second ground is that the AICTE, *in fact,* was not mislead by the letter given by the petitioner. There was another letter given by the Andhra Bank, sanctioning Rs.5 crores and the said amount would satisfy the requirements of AICTE for granting approval. The said fact is not disputed. The counsel further submits that the complaint discloses that the sanction of Rs.5 crores by Andhra Bank was also a basis for sanctioning the approval and hence, it amounts to the Society fulfilling the conditions laid down by the AICTE. The counsel also submits that by the date of getting approval itself, constructions were made to a large extent and that the college was being run successfully since 10 years.

5. The counsel relies on a ruling of the Apex Court in *Parminder Kaur v. State of U.P.*[1], wherein the facts are that the accused is alleged to have altered dates in the certified copy of revenue record. It was held that in order to attract the clause *"secondly"* under Section 464 IPC, the alteration of a document has to be for some gain or for some objective of the accused. It was also held that merely changing a document does not make it a false document. The Supreme Court considered that adding of figure '1' in the date in document, in question, cannot be said that the document became false for the simple reason that the appellant/accused had nothing to gain from the same and she was not going to save the bar of limitation.

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1 AIR 2010 SC 840

6. The facts of this case would also show that there was no benefit that was gained by the Society for which the petitioner herein is a Secretary, by submitting the impugned letter given by the General Manager, which is allegedly a forged letter. The AICTE, however, had the security that is given by the Andhra Bank and hence, this case is also a case similar to the one dealt with by the Apex Court (referred supra), where no gain is achieved by the accused by submitting the said letter. A perusal of the said letter shows that it was not signed by the petitioner and he is not the applicant. Hence, from the said angle also, strength is gained to the petitioner's pleas and the prosecution against the petitioner cannot be sustained.

7. With the above observations, the Criminal petition is allowed and the proceedings in C.C.No.528 of 2012 on the file of Additional Judicial Magistrate of First Class, Kavali, against the petitioner, shall stand quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

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T. RAJANI, J

December 20, 2017
LMV