THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10384 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the F.I.R.No.75 of 2016 on the file of I Town Police Station, Miryalguda, registered on the strength of the report dated 09.04.2016 lodged by the Regional Head, INDUS IND Bank, Hyderabad, for the offences punishable under Sections 409 and 420 of Indian Penal Code (for short "I.P.C.")

The main contention urged before this Court in the petition is that the petitioner was already charged for the identical offences during the same period, which is the subject matter of C.C.No.254 of 2016 pending on the file of Judicial First Class Magistrate, Miryalguda for the offences punishable under Sections 468, 470, 471, 472, 406, 409, 420, 120 (B) read with 34 of I.P.C. Hence, the investigating agency cannot proceed against the petitioner for the same offences and it is nothing but 2nd F.I.R. against the petitioner and that the petitioner was already removed from service. Therefore, the petitioner prayed to quash the proceedings.

Sri P.Rama Sharana Sharma, learned counsel for the petitioner, during hearing would draw the attention of this Court to the complaint dated 09.04.2016 and the allegations made in paragraph No.2 of page No.8 of the charge sheet filed along with the petition, which is the subject matter of C.C.No.254 of 2016 to contend that the allegations made in both the complaints are one and the same and that the petitioner cannot be proceeded once again for the same offences and requested to quash the proceedings.

Learned Public Prosecutor for the State of Telangana would contend that the allegations made in the present complaint are different from the allegations made in the charge sheet, which is the subject matter of C.C.No.254 of 2016 and it is not the 2nd F.I.R. against the petitioner and therefore, this Court cannot quash the proceedings and requested to dismiss the petition.

In view of the specific contention that the petitioner was already charged for identical offences during the same period while working as Employee in INDUS IND Bank, it is appropriate to extract the specific allegations made against the petitioner in the present report and in the charge sheet, which is the subject matter of C.C.No.254 of 2016, hereunder.

In the present report, specific allegations made are as follows:

> "On credit of FD proceeds of 14.91 lakhs in the Savings Bank a/c of Shirdi Sai Samajam, 18 lakhs were transferred based on cheque no.045656 and letter issued by the customer to the SB A/cs of the branch customers. The three accounts on the name of 1. Ch.Chiluvei bearing A/c 10009885483 amount 3.0 lakhs, 2. Chindram Andalu bearing A/c.No.100022596108 amount of Rs.6.00 lakhs, 3. Grandhi Maheswari A/c.No.100015181494 amount 9 lakhs were transferred. And also Shridi Sai Samajam has complained that Rs.5.80 Lakhs cash was handed over to the then Branch Manager chaitanya Divakaruni. For depositing to their saving Bank Account and thereafter for looking of FD.
>
> FD was not looked and amount was not deposited by Branch Manager, The Total 23 lakhs amount was misappropriated by the then Manager as claimed by the Shirdi Sai Samajam. The then Manager colluded with others and committed criminal breach of trust and misappropriated an amount of Rs.23 lakhs"

Whereas in the charge sheet, which is the subject matter of C.C.No.254 of 2016, the specific allegations is as follows:

> "The LW – 2 deposited Rs.9,00,000/- in IndusInd Bank Miryalguda on 03.09.2013 through cheque in the presence of A-1 & A-3, wherein fake FDR issued vide 095429 with date of Maturity 02.12.2013. L.W-3 deposited Rs.3,00,000/- in IndusInd Bank Miryalguda on 03-09-2013 by cash, wherein fake FDR issued vide 095430, with date of Maturity 02.12.2013, LW-4 Namireddy Krishna Reddy deposited Rs.4,00,000/- in IndusInd Bank, Miryalaguda on 28.08.2013 by cash with maturity date 26.10.2013, LW-9 Goli Ravi Krishna deposited Rs.3,00,000/- in IndusInd Bank Miryalguda on

30.07.2013 by cash with date of Maturity 26.01.2014. L.W.10 Jalla Aruna deposited Rs.95,000/- through cheque, Vide fake FDR No.TDO-MIAPS 10586003. LW-11 Gajji Saraswathi deposited Rs.4,00,000/- in Indus Ind Bank Miryalaguda through cheque, Vide cheque No.072511, on 08.08.2013, with date of maturity 06.11.2013. LW-15 Dr. D.Manjula deposited Rs.15,00,000/- on 25.09.2013 by cash, the A-1 assured that, he would issued FDR shortly but not issued. LW-16 Rapaka Mallaiah and son deposited Rs.2,00,000/- on 13.06.2013, Vide fake FDR No.095518, with maturity date 17.07.2013. LW-17 Veeraboyina Ramesh Kumar deposited Rs.21,50,000/- i.e. on 14.05.2013 Rs.1,50,000/- on 22.05.2013 Rs.5,00,000/-, on same day Rs.5,00,000/-, on 04.07.2013 deposited Rs.2,00,000/- on the name of his Sandya Rani. On 20.07.2013 deposited Rs.3,00,000/- and on 05.08.2013 deposited Rs.5,00,000/- where the accused persons issued fake FDs. LW-18 Vanam Nagaraju deposited Rs.12,19,972/-, where the accused issued fake FDR. The A-1 taken Gold loan of Rs.1,85,000/- by mortgaging Gold ornaments of 117.7 grams Yatham Mamatha deposited Rs.10,00,000/- and Rs.7,00,000/-. Namireddy Shakunthala deposited Rs.3,00,000/- on 21.09.2013, with maturity date 27.09.2013, Vide FDR No.095823. Pydimarri Ranganath deposited Rs.2,00,000/- on 03.08.2013, with maturity date 16.08.2013, vide FDR No.095496. Hymavathi Chirravuri deposited Rs.45,000/- on 21.09.2013, with maturity date 20.12.2013, vide FDR No.095421. The accused created fake FDRs with his software skills. The A-1 purchased a RADO company wrist watch Rs.60,000/- and kept with his mother LW-12 Divakaruni Savitri. The A-1 also purchased Navarathna Ring of 8.1 grams, and kept with his brother-in-law LW-14 Darmavarapu Venkata Pavan Kumar. The LW-19 Muchhu Usha stated that, A-5 has taken three cheques from her and given to A-1, the A-5 also diverted the cheques of Sravan Kumar for Rs.2,00,000/-, from the account of R.K.transport for Rs.2.5 lacks, from Chiluveru Chakravarthi account Rs.50,000/-, the amount drawn by A-1. The A-1 with the collusion of A-2 to A-5 have committed offence committed forgery and misappropriated the public funds, indulged in the criminal breach of trust by Banker, misappropriation of the public money, concealment with an intention to defraud."

In the present report lodged with the police by the defacto complainant, the petitioner allegedly transferred Rs.18,00,000/- from the Savings Bank accounts of branch customers based on cheque no.045656 and letter issued by the customer to the SB A/cs of the branch customers. The three accounts on the name of 1. Ch.Chiluvei bearing A/c 10009885483 amount 3.0 lakhs, 2. Chindram Andalu bearing A/c.No.100022596108 amount of Rs.6.00

lakhs, 3. Grandhi Maheswari A/c.No.100015181494 amount 9 lakhs were transferred, whereas in the earlier report, in paragraph No.2 of page No.8 of charge sheet, which is the subject matter of C.C.No.254 of 2016, it is alleged that LW – 2 deposited Rs.9,00,000/- in IndusInd Bank Miryalguda on 03.09.2013 through cheque in the presence of A-1 & A-3, wherein fake FDR issued vide 095429 with date of Maturity 02.12.2013. L.W-3 deposited Rs.3,00,000/- in IndusInd Bank Miryalguda on 03-09-2013 by cash, wherein fake FDR issued vide 095430, with date of Maturity 02.12.2013, LW-4 Namireddy Krishna Reddy deposited Rs.4,00,000/- in IndusInd Bank, Miryalaguda on 28.08.2013 by cash with maturity date 26.10.2013, LW-9 Goli Ravi Krishna deposited Rs.3,00,000/- in IndusInd Bank Miryalguda on 30.07.2013 by cash with date of Maturity 26.01.2014. L.W.10 Jalla Aruna deposited Rs.95,000/- through cheque, vide fake FDR No.TDO-MIAPS 10586003. LW-11 Gajji Saraswathi deposited Rs.4,00,000/- in Indus Ind Bank Miryalaguda through cheque, vide cheque No.072511, on 08.08.2013, with date of maturity 06.11.2013. LW-15 Dr. D.Manjula deposited Rs.15,00,000/- on 25.09.2013 by cash, the A-1 assured that, he would issued FDR shortly but not issued.

On close scrutiny of the allegations made in the present report and the earlier charge sheet, the amount misappropriated by the petitioner in the present report pertain to Ch.Chiluvei, Chindram Andalu and Grandhi Maheswari, they are not the listed witnesses in the earlier C.C., therefore, the contention of the learned counsel for the petitioner that the allegations made in the present report and in the earlier charge sheet are one and the same, cannot be accepted. However, the present offence allegedly committed by the petitioner during the same period, but that is not sufficient to quash the proceedings since it would not vexing the petitioner for the same offences.

Consequently, I find no force in the contention raised by the learned counsel for the petitioner to exercise inherent jurisdiction under Section 482 of Cr.P.C. since such jurisdiction can be exercised only to give effect to the order under Cr.P.C. or to prevent abuse of process of Court or to meet the ends of justice. When the petitioner allegedly misappropriated the funds of bank customers, who deposited the amount, he does not deserve any sympathy.

In "***State of Haryana v. Bhajan Lal***[1]" the Apex Court considered in detail the powers of High Court under Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
>
> (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
>
> (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

[1] 1992 Supp (1) SCC 335

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

Even by applying the above said principles, it is difficult to quash the proceedings by exercising inherent power under Section 482 of Cr.P.C.

In view of my foregoing discussion, I find no ground to quash the proceedings in the present case as the same is devoid of merits. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

09.11.2017
Ksp