

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No. 2861 OF 2017

JUDGMENT:

The present Criminal Revision Case is filed by accused officer No.1 viz., Thorati Madhusudhan Prasad alias Madhu, under Section 397 and 401 of Code of Criminal Procedure, 1973, seeking to set aside the order dated 13.10.2017 in Criminal M.P. No.394 of 2017 in C.C. No.2 of 2017, passed by the learned Special Judge for SPE & ACB Cases - cum - II Additional District and Sessions Judge, Nellore, whereby and whereunder the learned Special Judge dismissed the application filed by him (accused officer No.1) under Section 239 of the Code of Criminal Procedure, 1973 refusing to discharge him from the Calendar Case.

2. Heard Sri T.D. Phani Kumar, learned counsel for the revision petitioner - accused officer, and the learned Special Public Prosecutor for ACB Cases for the State of Andhra Pradesh, and perused the material on record.

3. The learned Special Judge dealt with elaborately the grounds agitated in the discharge petition and the case projected by the prosecution as shown in the charge sheet and the material on record and did not agree with the applicability of the rulings in **P. Appalaraju v. State** [2012 (2) ALD (CrI.) 1], **T.S. Laxman Rao v. State of Andhra Pradesh** [2012 (2) ALD (CrI.) 185 (A.P.)] and referred to the rulings relied on by the learned Special Public

Prosecutor before him in **Sajjan Kumar v. Central Bureau of Investigation** [Criminal Appeal (arising out of S.L.P. (Crl.) No.6374 of 2010] **Soma Chakravarty v. State through C.B.I.** [(2007) 5 SCC 403].

4. The only ground agitated by the accused officer has been that there were civil disputes between the *de facto* complainant and the accused officer and, therefore, there was false implication. The learned Special Judge did not agree with the said submission and having found that the accused officer was caught red-handed while accepting illegal gratification, the bribe amount being Rs.3,00,000/-, held that the petition is devoid of merits and dismissed it.

5. The gist of the prosecution case is that there were pre-trap proceedings on the complaint of the *de facto* complainant and pursuant to the trap organized, the *de facto* complainant met the accused officer in Town Planning Section office of accused officer No.1 and on his demand, the *de facto* complainant handedover the bribe amount of Rs.3,00,000/- to accused officer No.3, who is the attender, in Town Planning Section, on the instructions of accused officer No.1, and accused officer No.3 has to handover the said amount to one D.V. Sukumar, Kumar Jewellers, Mandapala Street, Nellore, and thus, tainted amount was seized from the accused officer No.3 and subjected him to chemical test and the test results proved positive and thereby the offences punishable under Sections 7, 13 (2)

read with 13(1) (d) of Prevention of Corruption Act, 1988 have been clutched.

6. When there is strong *prima facie* material on record, in the direction of culpability of the revision petitioner, the order passed by the learned Special Judge refusing his request and dismissing the discharge petition, cannot be faulted for the reason that there is nothing to find that any error being crept in the order under challenge. Thus, there is no merit in the present revision.

7. Therefore, the present Criminal Revision Case is dismissed, at the admission stage itself, confirming the order under challenge.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision stand dismissed.

A. SHANKAR NARAYANA, J

November 14, 2017.
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