

HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL PETITION No. 10431 of 2016

ORDER:

Heard Sri P. Veera Reddy, the learned Senior Counsel for Sri K. Murali Krishna appearing on behalf of the petitioner as well as the learned Special Public Prosecutor for the respondent-State.

2. The prayer in the criminal petition is as under:

“For the reasons stated, it is prayed that the Hon’ble Court may be pleased to call for the records in and relating to C.C.No.11 of 2016 on the file of the Court of the Special Judge for SPE and ACB Cases, Nellore, SPSR Nellore District and quash the same and pass such other order or orders as it may deem fit and necessary under the circumstances of the case.”

3. The petitioner is the sole-accused in C.C.No.11 of 2016 for the offences punishable under Sections 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, on the file of the Court of the Special Judge for SPE and ACB Cases, Nellore, SPSR Nellore District.

4. The facts of the case are that the petitioner entered into the police service as constable on 14.02.1975. He was promoted as Head Constable in the year 1981. In the year 2006, he was promoted as Assistant Sub-Inspector of Police and ultimately on attaining the superannuation, he retired from service on 31.06.2012. However, when he was in service, case was registered against him for possessing disproportionate assets to the known sources of income vide Crime No.24/RCA-NLR/2009. After investigation, a

charge sheet has been filed. The Court below has taken cognizance of the offences and the same was numbered as C.C.No.11 of 2016. Aggrieved by the same, the present criminal petition is filed.

5. Learned Senior Counsel appearing on behalf of the petitioner while making submissions, raised the following grounds to quash the proceedings initiated against the petitioner.

- i) The Joint Director, ACB is not the competent authority to authorize the registration of a crime and in fact, as per the memorandum dated 30.03.1983, the Director, ACB is the competent authority for giving permission for registration of cases.
- ii) There is inordinate delay in filing the charge sheet and the same vitiates the proceedings initiated against the petitioner in C.C.No.11 of 2016;
- iii) Though a notice dated 19.11.2010 is issued by the respondent seeking explanation from the petitioner and though the explanation has been submitted within the stipulated time, still the charge sheet was not filed within the time;
- iv) The source information report is not submitted along with the F.I.R. before the Special Judge for SPE and ACB Cases;
- v) The entire reading of the charge sheet will not disclose that the petitioner is not able to explain satisfactorily his case regarding possessing of the assets.

vi) Since the Prevention of Corruption Act, 1988 came into force on 08.09.1988 and as the check period pertains to 14.02.1975 to 18.12.2009, the charge sheet is silent as to how the calculations were made, more particularly, when the check period falls under the Old Act as well as the New Act and etc.

6. However, while the learned Senior Counsel was making his submissions to substantiate the grounds as stated above, the learned Special Public Prosecutor appearing for the respondent-State informed this Court that the trial in C.C.No.11 of 2016 has already been commenced and the Court below has already examined 24 prosecution witnesses out of 45 witnesses. As such, the present petition cannot be maintained.

7. Taking into the submissions made by the learned Special Public Prosecutor, this Court feels that as the trial has already been commenced and substantial number of witnesses have already been examined, no useful purpose would be served in hearing the present criminal petition. Therefore, this Court is not inclined to entertain and interfere in the present criminal petition. As such, the petitioner is given liberty to raise all the grounds as stated supra before the Special Court during the course of trial.

8. With the aforesaid observations, the criminal petition is disposed of. It is needless to mention that this Court has not observed anything on merits and the trial Court shall consider the aforesaid grounds raised by the petitioner during the course of trial, as per law.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Date:23.03.2018
ccm

P. KESHA VA RAO,J



HONOURABLE SRI JUSTICE P. KESHAVA RAO



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ccm