

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.4327 OF 2018

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue writ or order or direction more particularly one in nature of writ of Mandamus directing the respondent No.2 to 4 immediately hand over to an independent agencies in their wing like C.B.C.I.D. or other agencies who are specialized to look after economical offences to hold an investigation in FIR No.1198/2017 of Miyapur P.S., Cyberabad who is liable to the punishment under Sec 120B, 406, 468, 471, 506 of Indian Penal Code and 164, 167, 447, 448, 449, 450, 451, 452 of Company Act for the acts upon me with mala fide intention and further direct to carry out speedy and expeditious in the above said case within a specified time.”

2. According to the petitioner herein, he is an employee in Australia and came back to Hyderabad because respondent Nos.6 to 9 threatened him for questioning their irregularities. On the complaint made by the petitioner herein, police registered Crime No.1198 of 2017 under Section 420 I.P.C. against the unofficial respondents herein on 30.11.2017. In the present writ petition, petitioner is asking for entrustment of the investigation to C.B.C.I.D. or any other agency to hold investigation into the said crime.

3. When the matter is taken up, learned Government Pleader for Home (TG) appearing for respondent Nos.1 to 4 has submitted that the present case is not a case where investigation needs to be entrusted to C.B.C.I.D. or any other agency. In support of his

case, he placed reliance on the judgment of the Hon'ble Supreme Court reported in **K.V.Rajendran vs. Superintendent of Police, CBCID, South Zone, Chennai and others**¹. In the said judgment, the Hon'ble Apex Court, at paragraph Nos.13 and 17, held as under:

“13. The issue involved herein, is no more res integra. This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having “a fair, honest and complete investigation”, and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. Where the investigation has already been completed and charge sheet has been filed, ordinarily superior courts should not reopen the investigation and it should be left open to the court, where the charge sheet has been filed, to proceed with the matter in accordance with law. Under no circumstances, should the court make any expression of its opinion on merit relating to any accusation against any individual. (Vide: [Gudalure M.J. Cherian & Ors. v. Union of India & Ors.](#), (1992) 1 SCC 397; [R.S. Sodhi v. State of U.P. & Ors.](#), AIR 1994 SC 38; [Punjab and Haryana High Court Bar Association, Chandigarh through its Secretary v. State of Punjab & Ors.](#), AIR 1994 SC 1023; [Vineet Narain & Ors., v. Union of India & Anr.](#), (1996) 2 SCC 199; [Union of India & Ors. v. Sushil Kumar Modi & Ors.](#), AIR 1997 SC 314; [Disha v. State of Gujarat & Ors.](#), AIR 2011 SC 3168; [Rajender Singh Pathania & Ors. v. State \(NCT of Delhi\) & Ors.](#), (2011) 13 SCC 329; and [State of Punjab v. Davinder Pal Singh Bhullar & Ors.](#) etc., AIR 2012 SC 364).

¹ (2013) 12 Supreme Court Cases 480

17. In view of the above, the law can be summarised to the effect that the Court could exercise its Constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased.”

4. A reading of the affidavit filed in support of the writ petition does not show any contingencies of the nature that the Hon’ble Supreme Court pointed out, which warrant entrustment of the investigation to C.B.C.I.D. or any other agency. In view of the same, this Court does not find any merits in the writ petition.

5. Accordingly, the Writ Petition is dismissed. However, the respondent police shall complete the investigation as expeditiously as possible. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 09.02.2018
AMD

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