

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.7188 and 8361 of 2011

COMMON ORDER:

Since the complainant and the cause of action is one and the same, the criminal petitions are disposed of together by this common order.

2. The criminal petitions are filed, seeking for quash of the proceedings in Cr.No.251 of 2011, against the petitioners, who are A1 and A2, on the file of the Station House Officer, Abids Police Station, Hyderabad. The offences alleged are under Sections 420 and 468 of the Indian Penal Code.

3. Heard the counsel for the petitioners, the learned Public Prosecutor, appearing for the first respondent. None appears for the second respondent.

4. As per the complaint, what can be understood is that one Mir Qamar Hasan Rizvi, A3, filed a suit in O.S.No.26 of 1998 claiming himself to be a Sahab-e-Muntkhab Mutawalli of the wakf under the subject matter. The Court below conducted trial of the said case and dismissed the suit rejecting the claim of A3 as Mutawalli. The Wakf Board availed the services of Sri Habubuddin Anasari, a retired MRO, Nalgonda District and posted him as Executive Officer and A3, who was in search to establish his right so as to grab the management of the wakf, successfully managed the said retired officer and placed the matter before the Board for his appointment as Mutawalli. The Board examined the mater and rejected the claim by virtue of resolution

dated 16.11.2003. On supersession of the Board, the Government appointed one S.A. Huda, Additional D.I.G., Vigilance and Enforcement Department, as Special Officer of the Wakf Board and A3 again successfully attempted to place the matter before the Board through A1. The Special Officer rejected the claim on the ground that no fresh ground is made to consider the request. The Government withdrew the services of the said Special Officer and appointed one Shaik Madar, A2, from Civil Supplies Department, to act as Chief Executive Officer as well as Special Officer of the Wakf Board and both the individuals i.e. A3 in spite of the fact that the trial Court after conducting full trial and a full fledged Board and the Special Officer appointed by the Government, who was in the cadre of Addl. DIG, rejected the claim.

The Government appointed a Full Fledge Board on 16.12.2008 and the first meeting of the Board was convened on 29.12.2008 and thereafter, the Board started its functioning and a committee was constituted to celebrate Jashan function. Assailing the constitution of the committee, A3 filed WP.No.15071 of 2009 before this Court stating that the former Special Officer has appointed him as Mutawalli and that the Board had no powers to appoint the committee. The Board thereafter called for the link files and found that there is nothing on record showing that A3 was ever appointed as Mutawalli and the same fact was placed before this Court while filing the counter. The said writ petition was subsequently dismissed. The Board examined the matter and unanimously resolved to take the institution under the direct management of the Board and proceedings were issued and accordingly the charge of the institution has been assumed by the

officials of the Board. Aggrieved by the said proceedings, A3 filed WP.No.16064 of 2011, which was dismissed after hearing. A3 filed a copy of Gazette in support of his claim that the Special Officer has appointed him as Mutawalli and the Board has appointed one M.A. Azeem as Enquiry Officer, to verify the facts, so as to take legal action.

5. These being the allegations, the counsel for the petitioners, draws attention of this Court to the report, which was submitted by A1, which is the report, which is alleged to have been made in connivance with A3.

6. A perusal of the said report shows that there was only a suggestion made by A1 to place the matter before the Board for appointment of A3 as Mutawalli. This action was taken as an aspect of proving the connivance between A1 and A3. There is absolutely no fact pointing towards the accused, attracting the alleged offences. The main allegation only seems to be made against A3. Hence, in view of the above, this Court opines that on the face of the report itself, no case is made out against A1 and A2 and further continuation of proceedings would only result in abuse of process of law.

In the light of the above, the criminal petition is allowed and the proceedings in Cr.No.251 of 2011, against the petitioners, who are A1 and A2, on the file of the Station House Officer, Abids Police Station, Hyderabad, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

T. RAJANI, J

September 11, 2018/DSK