

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.4397 OF 2018

ORDER:

Heard Sri P.Kasi Nageswara Rao, learned counsel for the petitioner, learned Government Pleader for Home (A.P.) appearing for respondent No.1, Sri P.Udaya Bhaskara Rao, learned Standing Counsel appearing for Anti-Corruption Bureau (A.P.) appearing for respondent Nos.2 and 3, learned Government Pleader for Home (TG) appearing for respondent No.4 and Sri V.Ravi Kiran Rao, learned Standing Counsel appearing for Anti-Corruption Bureau (TG) for respondent Nos.5 and 6.

2. In the present writ petition, challenge is to the action of respondent No.6 – The Deputy Superintendent of Police, A.C.B., Mahabubnagar Range, Mahabubnagar in not filing the final report before the Special Judge for SPE & ACB Cases, Nellore.

3. The petitioner herein is the accused in Crime No.12/RCA-TCT/2011, dated 25.07.2011, registered for the offence under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 on the file of A.C.B., Tirupati Range. The said case was registered on the allegation of disproportionate assets while the petitioner herein was working as Deputy Executive Engineer in Priyadarshini Jurala Project, Gadwal Circle No.1, Mahabubnagar District in the erstwhile State of Andhra Pradesh. *Vide* G.O.Rt.No.806, Irrigation & CAD (SCR – VI) Department, dated 03.08.2011, petitioner was suspended from service and subsequently, he was reinstated into service *vide* G.O.Rt.No.299, Irrigation & CAD (SCR – VI) Department, dated 05.05.2014, and

later, he retired from service on 30.04.2015. It is further stated in the affidavit filed in support of the writ petition that after thorough investigation, final report (DFR) was sent to respondent No.2 on 19.11.2014 by respondent No.3 stating that no case is made out against the petitioner and respondent No.2 recommended for dropping of action against the petitioner *vide* letter bearing Rc.No.169/RCA-TCT/2011, dated 19.11.2014. The petitioner herein was allotted to the State of Telangana and on the ground of lack of jurisdiction, respondent No.2 transferred the original file of the said case to the State of Telangana i.e., respondent No.4 *vide* Memo No.12346/VIG.I/A2/2015-2, dated 03.09.2015. The State of Telangana issued G.O.Rt.No.299, Irrigation & C.A.D (VIG.I.2) Department, dated 08.05.2016, dropping action against the petitioner in the above mentioned crime. In the above background, the grievance of the petitioner is that despite the above developments, respondent Nos.5 and 6 did not take any steps in furtherance of the same by way of closing the F.I.R.

Earlier, the petitioner herein filed Transfer Criminal Petition No.234 of 2017 under Section 407 Cr.P.C., praying for withdrawal of the case in Crime No.12/RCA-TCT/2011 from the file of the Special Judge for SPE & ACB Cases – cum – II Additional District and Sessions Judge, Nellore and for transfer of the same to the file of the learned I Additional Special Court for SPE & ACB Cases, City Civil Court, Hyderabad. This Court disposed of the said Tr.Crl.P.No.234 of 2017 by way of an order, dated 25.01.2018, directing the Anti Corruption Bureaus of both the states to take appropriate action in accordance with law for filing report under Section 173 of the Code of Criminal Procedure.

4. At the hearing, it is submitted by Sri V.Ravi Kiran Rao, learned Standing Counsel for A.C.B. (TG) that with an intention to file a final report, the A.C.B. (TG) filed an application before the Special Judge for SPE & ACB Cases, Nellore with a request to transfer the original F.I.R., related documents, cash and gold pertaining to the case to the Court of the I Additional Special Judge for SPE & ACB Cases – cum - V Additional Chief Judge, City Civil Court at Hyderabad in order to proceed further in the interest of justice. A copy of the said application *vide* CFR No.157, dated 09.02.2016, is placed on record by the learned Standing Counsel. It is also brought to the notice of this Court that on 09.02.2016, the said application was returned by the learned Special Judge for SPE & ACB Cases, Nellore asking the A.C.B. (TG) to obtain necessary orders from the concerned Court or this Court. It is further submitted by the learned Standing Counsel that in view of the absence of the F.I.R. and the connected documents as mentioned above, the Court of the I Additional Special Judge for SPE & ACB Cases, Hyderabad is not in a position to proceed further with the matter. It is also submitted by the learned Standing Counsel that there is no express provision under the Code of Criminal Procedure under which the above said documents can be sent.

5. Having heard the learned counsel for the petitioner, learned Government Pleader for Home (A.P.), learned Government Pleader for Home (TG), learned Standing Counsel appearing for ACB (A.P.) and the learned Standing Counsel appearing for ACB (TG), this Court deems it appropriate to dispose of the writ petition with a

direction to the Court of the Special Judge for SPE & ACB Cases, Nellore to take necessary steps for transfer of original F.I.R., other relevant documents, gold and cash to the Court of the I Additional Special Judge for SPE & ACB Cases, Hyderabad so as to enable the A.C.B (TG) to take further steps in the matter.

6. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

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

Date : 26.02.2018
AMD

JUSTICE A.V.SESHA SAI



THE HONOURABLE SRI JUSTICE A.V.SESHA SAI



WRIT PETITION No.4397 OF 2018

Date: 26.02.2018

AMD