

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.3687 of 2018

ORDER :

Heard both sides.

2. The crime registered was on 09.12.2017 by the Anti Corruption Bureau(for short, 'ACB'), Eluru Range, Eluru Police Station of West Godavari District as Cr.No.17/ RCA-EWG/ 2017 u/ sec.13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988(for short, 'the Act').

3. The petition filed to quash said FIR was on 20.02.2018. Another Bench of this Court when the matter came for hearing on 28.03.2018 posted the matter to 04.04.2018 at request of the learned Spl.Public Prosecutor representing the State of Andhra Pradesh for the ACB and again at request of the learned counsel for the petitioner to 23.04.2018, 24.04.2018 and on 01.05.2018 the docket order with directions read as follows:-

"The learned Public Prosecutor would submit that the investigation is at the preliminary state. Even from the date of registration of the FIR till the date of filing of the counter, the disproportionate assets have been increased and still there is a likelihood of further increase in the assets.

The learned Public Prosecutor is directed to file the status report with regard to the investigation done so far in a sealed cover."

It is thereafter posted to 29.06.2018 and in the meantime a sealed cover was received from the Spl.Public Prosecutor which is kept in the custody of the Registrar(Judicial) and on 26.10.2018 there was a direction to put up the sealed cover for further hearing and at request posted to 30.10.2018 and on 31.10.2018 at request posted to 02.11.2018 at 3.30p.m., and on 02.11.2018, the sealed cover was opened in the Court and perused the contents of the status report covered by the sealed cover and the Registrar(Judicial) to preserve said sealed cover to submit on the date of further hearing and to hear arguments further, the matter was posted to

08.11.2018 and on 08.11.2018, it is observed that there is no need to preserve the sealed cover and learned Public Prosecutor was directed to supply a copy of the said additional report to the counsel for the petitioner to respond further, if any, and also reply if any, by kept the said cover in the file with report and posted under same caption to 26.11.2018 and again to 27.11.2018. It was on 27.11.2018, this Court ordered as follows:-

“Heard both sides. In view of the status report submitted pursuant to the direction of another Bench of this Court, dt.01.05.2018, in a sealed cover that was received and a copy already supplied to the counsel for the petitioner/accused and filed two sets of additional material by the petitioner/accused. The learned Spl.Public Prosecutor says it requires verification to speak on the authenticity.

The respondent-ACB authorities are directed to submit a detailed status report with reference to the same by 11.12.2018.

Posted on 11.12.2018 under the same caption.”

It is on 11.12.2018 again at request of the Spl.Public Prosecutor for ACB, posted to 15.12.2018 and coming from time to time and taken up for hearing today, dt.20.12.2018. Further status report filed on behalf of the respondent-State represented by the Inspector, ACB, Eluru Range by the Spl.Public Prosecutor running in 12 pages with 13 paras. It is stated that the investigation is still in progress and after completion a detailed report will be forwarded to Government through Vigilance Commissioner.

4. The report was dated 09.12.2017. In fact, the memorandum No.700/ SC.D/ 88-4, Genl.Admn.(SC.D) Dept., dt.13.02.1989 speaks regarding measures to expedite investigation in ACB Cases and by classified in 4 types viz: 1) Trap Cases in which the investigation should be completed within three months, 2) Assets disproportionate to Income in which to complete investigation normally within six months and if could not be completed for any unavoidable reasons, the time limit may be extended upto another three months and in no case the investigation should go beyond nine months

since the burden of proving his defence rests on the Accused Officer in view of the legal presumptions to be raised against the accused under the Act, and 3) Sanction of Prosecution and 4) Suspension of Officers.

5. From the above, the outer limit to complete the investigation in disproportionate assets cases is 9 months from the said circular which is in force and referring to the D.O. letter No.87/ RPCO/ 86 dt.14.06.1988 from the Director General, ACB and having regard to the above and from the material on record, the crime registered was dt.09.12.2017 and pending for more than one year by now without completion of investigation, the respondent authorities are directed to complete investigation and file final report within four months from the date of receipt of the order.

6. The learned Spl. Public Prosecutor submits that though the circular is binding internal there is a practical difficulty that also to be considered by the Court and seeks time of nine months to one year. In fact, the circular referred supra speaks the time of 6 months only and it could be extended to further time of three months and even taken for further extension by now more than one year is completed. Thereby it is just to grant only four (4) months time for completion of investigation.

7. Having regard to the above, the Criminal Petition is disposed of by left open from the final report filed if any, and if not filed in the limit provided supra to move the Court afresh.

Consequently, miscellaneous petitions if any, pending, shall stand closed.

Date: 20.12.2018
Note: Issue copy forthwith.
b/o.vvr

Dr. B. SIVA SANKARA RAO J,