HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.8497 of 2017

ORDER:

In this petition filed under Section 482 Cr.P.C, petitioner/A7 seeks to quash the proceedings against him in C.C.No.307 of 2016 on the file of X Metropolitan Magistrate, Cyberabad at Malakajigiri registered for the offences under Sections 420 and 471 IPC.

2) The prosecution case is that on credible information, the SI of Police, Malkajigiri PS raided SK Institute of Professional Studies situated at H.No.9-57/1, Venkateswara Nagar, Malkajigiri and found the organizers of the said Institute manufacturing fake education certificates. His investigation revealed that A3—Abdul Tameem of Nizamabad has been running AR Education in Nizamabad town wherein he started collecting huge fees from the needy students and issuing them fake certificates without making them to appear for exams, that too within one month of paying the fees. He had colluded with the prime accused A1—Ram Singh and his aide A2—Mounika of Delhi who are supporting A3 in providing fake certificates after receiving money. In the process, A3—Abdul Tameem got acquaint with A4—Smt. Naseem Banu @ Sana and induced her also to enter into the similar business. Since A4 had no source of income and being a divorced woman with two kids depending on her, she had joined with A3—Tameem. A3—Tameem trained her and A5—Md.Khader by opening his branch at Ameerpet for one month and after they got trained in the business, A4—Smt. Naseem Banu @ Sana and A5—Md.Khader started partnership business with similar activities. They executed a partnership deed dated 16.03.2015 and opened M/s. SK Distance Education Institute of Professional Studies at Venkateswara Nagar, Malkajigiri after meeting A1—Ram Singh and A2—Mounika in Delhi. They have given wide publicity in newspapers and attracted the needy customers. In the process, they

have collected upto Rs.18,000/- for 10th class certificate, Rs.25,000/- for Intermediate Certificate and upto Rs.40,000/- for Degree Certificates and shared the part of fees with the prime accused, A1 and A2 by depositing the money in bank accounts shown by them. A4 and A5 collected huge fees amounts from A6 to A10 and without conducting exams to them or making them appear for any sort of exams, A4 and A5 procured fake certificates as per their requirement from A1 and A2 with the help of A3 and kept them ready for delivery to A6 to A10. Thus, the accused have cheated Mahatma Gandhi Vidya Pith, Varanasi by issuing fake certificates in the name of the said college for using the same as genuine and got wrongful gain through illegal means. A6 to A10 have knowingly colluded with A4 and A5 to obtain fake certificates and to use the same as genuine certificates. Hence, the charge sheet under Sections 420 and 471 IPC.

3) Opposing the criminal case, learned counsel for petitioner/A7 would submit that the IO committed a grave blunder in charge sheeting the petitioner/A7 and the trial Court was also at fault in taking cognizance against him merely because some of his certificates were found in SK Institute during the raid conducted by IO. Learned counsel would submit that petitioner approached the said Institute after reading the advertisement in Deccan Chronicle Newspaper and deposited part of the amount along with the educational certificates for obtaining admission into the course being offered by them. However, after the raid conducted by the IO, the petitioner came to know that Accused Nos.1 to 4 were producing fake certificates and that a case was registered against them and petitioner was also arrayed as Accused No.7 for no fault of him. The petitioner has absolutely nothing to do with the offence.

a) Nextly, learned counsel would argue that in the cash receipt book which was seized by the police during the raid, apart from the duplicate receipt in the name of petitioner, receipts in the name of some other persons were also found.

However, the police conveniently excluded them from the array of accused and showed them as witnesses. Learned counsel referred the names of Mr.K.Nihil Namdev, Shaik Mustaq Ahmed and Wadderi Sri Krishna Karthik who were shown as witnesses in the charge sheet. He would further argue that though the names of Mr. Tofeeq, Smt.Sonia Sahani and Tofeeq Ahmed, Shiva Krishna, Sunitha Easter Rani, Sanjeev Mukherjee and B.Anand were found in the duplicate cash receipt books but they were not shown as accused or witnesses and thus the police have adopted invidious attitude towards the petitioner and some others. He thus prayed to allow the petition.

4) In oppugnation, learned Additional Public Prosecutor would argue that all the accused were involved in a grave offence of fabricating fake certificates for using them for different purposes and the petitioner/A7 is one among them. The police could file charge sheet only against the available accused and further charge sheet will be filed against other culprits as and when their whereabouts are found out and therefore the question of the police adopting biased policy does not arise. He thus prayed to dismiss the petition.

5) A perusal of material would show that on credible information the SI of Police, Malkajigiri PS raided SK Institute of Professional Studies, Malkajigiri on 10.06.2015 along with staff and panchas and found some fake certificates and other incriminating material in the Institute. During the course of interrogation of A4—Smt. Naseem Banu @ Sana, she revealed that she got acquainted with A3 who was running AR Education at Nizamabad town and he induced her to start a business to issue fake certificates to the needy people by collecting huge amounts she further stated that A1 and A2 who are residing at Delhi were already in the said business and they would provide support. A4 further revealed that she worked for some time with A3 and later she started SK Education and Professional Studies at Malkajigiri. A5 has been assisting her and A1 to A3 were

rendering guidance in the fake certificate business. She further stated she has issued fake certificates to different students one of whom is the petitioner/A7. Apart from her statement, the police found fake certificated in the Institution. Sofaras petitioner/A7 is concerned, they found fake Memorandum of SSC, Provisional Certificate, Intermediate Examination 2010 and Transfer Certificate. In the light of above material, the police laid charge sheet against petitioner/A7. Therefore, it is fallacious on the part of petitioner/A7 to argue that he only gave his certificates for admission into the course but he was erroneously showed as accused. In the light of strong *prima facie* material against him, the petitioner does not deserve to be emancipated from criminal proceedings. It is informed by learned Addl. P.P that the case is under trial now. Hence, the petitioner is directed to face trial and vindicate his stand.

6) Sofaras the other contention of petitioner is concerned, the police shall conduct investigation and book the other accused who were involved in the offence. Similarly, during the course of trial, if the Trial Court come across the complicity of any other persons in the offence, it may proceed against them by adding them as accused by adopting appropriate procedure of law.

7) With the above observation, the Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 20.06.2018

<u>Note;</u> Office to send copy of the order to the trial Court.
(b/o)
Murthy