

* THE HONOURABLE SRI JUSTICE P. KESHA RAO

+CRIMINAL REVISION CASE No. 1565 OF 2008

% 10-10-2018

Bayyareddy Manjuntha

...Petitioner

Vs.

\$ State – ACB, Warangal Range,
Warangal

... Respondent

!Counsel for the petitioner : Sri C.Sharan Reddy

^ Counsel for the Respondents: Sri T.L. Nayan Kumar,
Special Public Prosecutor for ACB

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> Head Note:

? Cases referred:

1. (2002) 7 SCC 631



THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.1565 OF 2008

ORDER:

Heard the learned counsel for the petitioner as well as the learned Special Public Prosecutor appearing for respondent State.

2. The present Criminal Revision Case is filed challenging the orders passed in CrI.M.P.No.389 of 2008 in C.C.No.19 of 2006 dated 5.9.2008 on the file of the Court of the Principal Special Judge for SPE & ACB cases, City Civil Court, Hyderabad, dismissing the petition filed under Section 239 Cr.P.C.

3. The facts in brief are that the petitioner herein is charged for the offence under Sections 7 and 13 (1) (d) read with Section 13 (2) of Prevention of Corruption Act, 1988. The basic allegation made against the petitioner is that one K.Ashok Reddy, defacto complainant was having A.3.02 guntas of dry land in Sy.No.30 at Kanvaigudem village, Kodakandla mandal of Warangal district. He intended for mango plantation in his land under the guidance of the Horticulture department, Thorrur. He dug 220 pits by engaging labour and approached the petitioner. The defacto complainant paid Rs.1650/- as 50% subsidy for 220 mango plants at Rs.15/- for each plant and subsequently, the petitioner informed him that he would get 440 kgs of rice @

2 kgs rice for each pit and in that connection, the petitioner demanded and accepted Rs.600/- from him to do official favour for issuing rice coupons for 440 kgs. It is also stated that the petitioner was appointed as a contract Horticulture Officer at Thorrur, Warangal district by corporate solution private limited vide appointment letter dated 1.10.2003 and was receiving remuneration from the Government. During the pendency of C.C.No.19 of 2006, the petitioner filed the above said CrI.M.P.No.389 of 2008 under Section 239 Cr.P.C. to discharge him for the charges levelled against him. Learned Special Judge, after hearing, dismissed the said petition by orders dated 5.9.2008. Aggrieved by the same, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner would contend that the Court below erred in not discharging the petitioner for the offence under Sections 7 and 13 (1) (d) read with 13 (2) of Prevention of Corruption Act since he is not discharging any public duty and he will not come within the ambit of a public servant. The petitioner has been appointed as a contract Horticulture Officer and he is receiving remuneration from Ace Corporate Solutions Private Limited, which is purely a private company. He also contended that the petitioner was never on the pay rolls of the Government and he was neither directly nor

indirectly paid salary by the Government for his duties as contract Horticulture Officer.

5. Per contra, learned Special Public Prosecutor appearing for respondent State contended that any person discharging the public duty, will come within the definition of a public servant. He also submitted that as per Section 2(c) (xii) of Prevention of Corruption Act, any person who is a office bearer of any institution in whatever manner established receiving or having received any financial assistance from the Central Government or State Government or local or other public authority, comes within the definition of a public servant.

6. Having heard both the counsel and from the perusal of the material on record, it is revealed that the petitioner was appointed as a contract Horticulture Officer by one Ace Corporate Solutions Private Limited. He was discharging duties which are akin to a Horticulture Officer. In the course of discharge of his duties, the petitioner demanded and accepted a sum of Rs.600/- from the defacto complainant for the purpose of issuing rice coupons for 440 kgs of rice since the defacto complainant dug 220 pits for growing mango garden. However, during the course of hearing, it is brought to the notice of this Court that the petitioner though was appointed by Ace Corporate Solutions Private Limited, was receiving

remuneration from the State Government. In that view of the matter, it cannot be said that the petitioner cannot be a public servant and he is not discharging public duty.

7. In this context, Section 2(c) (xii) reads as under:

“2 (c) “Public servant” means, ----

.....

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.”

8. A perusal of the above said provision indicates that the petitioner though appointed by Ace Corporate Solutions Private Limited was discharging public duties which are akin to a Horticulture Officer and comes within the definition of Section 2 (c) and he is a public servant.

9. Further, the basic object in enacting the Prevention of Corruption Act, 1988 is to curb growing corruption in Government and semi government departments. The provisions of the Act contemplate that a person or an employee working in any government or semi government organization including any institution and discharging the public duty within the definition of Section 2(b) of the Act would automatically

come within the definition of a public servant. When such is the laudable object of the enactment, merely because the petitioner was appointed as a Horticulture officer on contract basis by Ace Corporate Solutions Private Limited, it cannot be said that he is not a public servant.

10. The Hon'ble Apex Court in the case of *GOVT. OF ANDHRA PRADESH AND OTHERS v. P. VENKU REDDY*¹, held as under:

“12. In construing the definition of “public servant” in clause (c) of Section 2 of the 1988 Act, the court is required to adopt a purposive approach as would give effect to the intention of the legislature. In that view the Statement of Objects and Reasons contained in the Bill leading to the passing of the Act can be taken assistance of. It gives the background in which the legislation was enacted. The present Act, with a much wider definition of “public servant”, was brought in fore to purify public administration. When the legislature has used such a comprehensive definition of “public servant” to achieve the purpose of punishing and curbing growing corruption in government and semi-government departments, it would be appropriate not to limit the contents of the definition clause by construction which would be against the spirit of the statute. The definition of “public servant”, therefore, deserves a wide construction.”

¹ (2002) 7 SCC 631

11. For the above said reasons, this Court is of the opinion that there are no merits in the Criminal Revision case.

12. Accordingly, the Criminal Revision Case is dismissed.

13. At this stage, it is brought to the notice of this Court by the learned counsel for the petitioner that the petitioner is working as an employee in Karnataka State and it is difficult for him to appear on each and every date of hearing in C.C.No.19 of 2006 and sought permission to dispense with his presence on every date of hearing.

14. Acceding to the said request, the presence of the petitioner is dispensed with in C.C.No. 19 of 2006 on the file of the Court of the Principal Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad, except whenever his presence is required.

Pending miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO,J

Date: 10.10.2018

Note: LR copy to be marked
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