

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.5978 of 2017

ORDER:

The prayer sought in the present criminal petition is as under:

“Therefore, it is prayed that the Hon'ble Court may be pleased to quash the show cause notice issued for initiating the proceedings against the petitioner on the file of Special Judge for SPE and ACB cases-cum-Additional Metropolitan Sessions Judge, Vijayawada, under Section 193 of IPC and pass such other and further orders as this Hon'ble Court deems fit and proper in the interest of justice.”

The facts of the case are that the Inspector of Police, ACB, Eluru Range, Eluru, West Godavari District, laid a charge sheet against accused Nos.1 and 2, who are the Head Clerk and Senior Assistant respectively of Commercial Tax Officer, Bhimavaram, for the offences under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 for demanding and accepting gratification of Rs.12,000/- for assessment and to return the records of the petitioner. Learned Special Judge for SPE and ACB cases-cum-III Additional District and Sessions Judge, Vijayawada, after taking cognizance of the offence, numbered the case as C.C.No.20 of 2007. After a full-fledged trial, the said C.C.No.20 of 2007 ended in conviction of the accused for the above said offences by judgment dated 15.06.2016.

After passing of the said judgment, it appears, the Court below issued a show cause notice dated 02.01.2017 to the petitioner stating that on 17.12.2008 he deposed before the Court in his chief examination that he did business as Managing Partner of M/s. Venkata Srinivasa Rice Treaders, Bhimavaram, from April, 2000 to April, 2004 and closed the business and submitted for

assessment for the year 2000-01 along with CA report during March, 2004. At that time Sri S. Rambabu through Sri B.Somanna called him and demanded Rs.20,000/- for assessing the firm's accounts and later reduced it to Rs.12,000/- and Rs.4,000/- for office staff. In those circumstances, the petitioner approached the Deputy Superintendent of Police, ACB and lodged a report, but in his cross-examination, he has stated that the said amount was paid towards tax due and the same was also not stated in his report and in the statement recorded under Section 164 Cr.P.C. Therefore, the Court below, after assessing the evidence, was of the opinion that it is expedient in the interest of justice that the petitioner must be tried under Section 193 IPC for giving false evidence before the Court in a corruption case and accordingly issued the impugned show cause notice calling upon him to submit his explanation as to why he should not be prosecuted under Section 193 IPC and directed him to appear before the Court on 10.01.2017 and file his explanation. Aggrieved by the issuance of the said show cause notice, the present petition is filed.

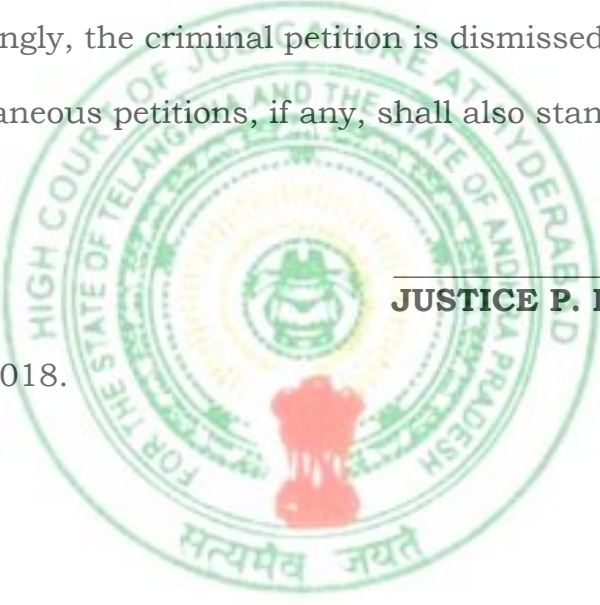
Before going into the contents of the criminal petition as well as the material available on record, in the impugned proceedings the petitioner was asked to submit his explanation as to why he should not be prosecuted under Section 193 IPC. If the explanation is submitted giving details about the evidence given by him before the Court below and in the process if it is demonstrated that he has not committed any offence under Section 193 IPC, there is every probability of dropping the proceedings initiated

against him. But, however, at the stage of issuance of show cause notice itself, the petitioner approached this Court.

Be that as it may, unless and until the Special Judge has decided to prosecute the petitioner for the offence under Section 193 IPC by concluding that he has committed an offence by taking cognizance of the offence, it cannot be said that he can invoke the provisions of Section 482 Cr.P.C. and file the present criminal petition. As such, this Court is of the opinion that the matter is premature in nature. Therefore, there are no merits in the criminal petition and the same is liable to be dismissed.

Accordingly, the criminal petition is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.



JUSTICE P. KESHA RAO

Date: 11.04.2018.
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