

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.2080 of 2014

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor for the respondent State.

In the present revision case the orders passed in CrI.M.P.No.6031 of 2012 in C.C.No.927 of 2011 dated 12.06.2013 on the file of the II Additional Judicial I Class Magistrate, Tanuku, are challenged.

The facts in brief are that the petitioner is the sole accused for the offences charged under Sections 409 and 420 IPC. The specific case of the prosecution is that when the petitioner was working as In-charge Secretary, Gram Panchayat, Mortha, she collected various amounts and the same were not deposited into the Sub-Treasury, Tanuku, thereby she misappropriated the amounts. In that connection, the Divisional Panchayat Officer, Kovvur, was appointed as an enquiry officer to look into the same and submit a report. On enquiry, the said Divisional Panchayat Officer submitted a report in proceedings Roc.No.641/2011-A1 (Pts), dated 05.05.2011, wherein it is mentioned that one Sri R.Sitaraman, Junior Assistant and Sri N. Satyanarayana, Bill Collector of Gram Panchayat Mortha are responsible for misappropriation of the said amounts and they were suspended on various charges. It is also mentioned that the petitioner, who is the In-charge Panchayat Secretary, was warned not to entrust the financial transactions to her subordinates and be careful in future. It is also relevant here to mention that the amounts mentioned in

the said report are the subject matter of the amounts mentioned in the charge sheet by the prosecution.

During the pendency of the proceedings before the Magistrate, the petitioner filed CrI.M.P.No.6031 of 2012 under Section 239 Cr.P.C., to discharge her for the above said offences. After hearing, the said petition was dismissed by orders dated 12.06.2013. Aggrieved by the same, the present revision case is filed.

Learned counsel for the petitioner would contend that the petitioner being the In-charge Panchayat Secretary of Gram Panchayat, Mortha, is not responsible for the above said misappropriation of the funds. In fact, one Sri R. Sitaraman and Sri N. Satyanarayana being the Junior Assistant and Bill Collector are responsible. The lower Court committed an error in dismissing the petition, without appreciating as to whether the petitioner has misappropriated the amounts or not.

Per contra, the learned Public Prosecutor appearing for the respondent State supported the impugned orders.

Having heard both the counsel and from a perusal of the copy of the charge sheet and the enquiry report filed in the material papers, it is revealed that the amounts alleged to have been misappropriated, as mentioned in the charge sheet, is the subject matter of the enquiry by the Divisional Panchayat Officer, Kovvur. In the said enquiry report, it is categorically mentioned that Sri R. Sitaraman and N. Satyanarayana are responsible for collecting the amounts and not depositing the same into the Sub-Treasury, Tanuku. It is also mentioned that subsequent to the transfer of the petitioner as In-charge Panchayat Secretary, the

next incumbent Panchayat Secretary remitted a sum of Rs.1,47,531/- into the Sub-Treasury, Tanuku, and the petitioner was warned not to entrust the financial transactions to her subordinates and be careful in future, as she failed to watch the remittance after her relieving from the post of Panchayat Secretary.

On a further perusal of the impugned orders, it is revealed that the petitioner did not file the copy of the departmental enquiry report enabling the Court below to appreciate the matter in proper perspective and therefore the said petition was dismissed. But, however, the said report now filed along with the material papers in the revision case clinchingly establish that the petitioner is not responsible for the misappropriation of the funds as alleged. Thus, no case is made out, leave alone, any *Prima facie* case against the petitioner for the offences against which she is charged. Under these circumstances, this Court is of the opinion that continuation of the above proceedings would amount to abuse of process of the Court.

Accordingly, the criminal revision case is allowed, setting aside the orders passed in CrI.M.P.No.6031 of 2012 in C.C.No.927 of 2011 dated 12.06.2013 on the file of the II Additional Judicial I Class Magistrate, Tanuku.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 07.09.2018.
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