

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 6479 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioner-accused to quash the proceedings in crime No. 3 of 2018 of Vizianagaram Rural Police Station, Vizianagaram District, registered for the offences punishable under Sections 419, 420, 466, 467, 468 and 471 of IPC.

2. The petitioner joined as Attender in District Court, Vizianagaram, under reservation quota for S.T. During antecedents' inquiry, it was found that the caste certificate produced by the petitioner as "Mooka Dora", which is recognized as ST by Government, is fake. Thus, the petitioner secured employment by fraud creating fake caste certificate. A letter was addressed to District Collector to inquire into and report. The District Collector, Vizianagaram, got the matter inquired through Tahsildar and submitted a report that the certificate produced by the petitioner is fake. Thereupon, a complaint was lodged by the Administrative Officer, District Court, Vizianagaram, with the police who in turn registered the same as a case in crime No. 3 of 2018 of Vizianagaram Rural Police Station for the offences referred *supra*.

3. The present petition is filed on the ground that the petitioner was placed under suspension on account of alleged securing of employment by producing fake caste certificate and that the suspension order dated 19-12-2017 and the show-cause

notice dated 19-12-2017 were set aside by a Division Bench of this Court *vide* order dated 06-06-2018 in W.P.No. 629 of 2018. It is also contended that when a similar question came up before this Court in a Writ Petition, this Court set aside the same in the Writ Petition and therefore the criminal proceedings against the petitioner cannot be continued.

4. At the hearing, learned counsel for the petitioner would contend that when W.P.No. 629 of 2018 was allowed on the ground that the District Collector did not follow the procedure contemplated under the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act'), for the same issue, the criminal proceedings cannot be continued and he has drawn the attention of this Court to the guidelines issued by the Apex Court in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others Vs. State of Gujarat and another*<sup>1</sup> and taking advantage of the guidelines, learned counsel for the petitioner requested to quash the proceedings against the petitioner in crime No. 3 of 2018 of Vizianagaram Rural Police Station, Vizianagaram District.

5. It is an admitted fact that the petitioner secured employment under reservation category of S.T. claiming that he belongs to Mooka Dora Community which is recognized as S.T. by Government and the post is also reserved for S.T. When the certificate was referred during antecedents' inquiry to District Collector, it was found that the certificate is fake. No doubt the

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<sup>1</sup> CRIMINAL APPEAL No. 1723 OF 2017

District Collector did not conduct inquiry as contemplated under the Act for cancellation of the certificate as observed by the Division Bench of this Court in W.P.No. 629 of 2018. However, no request was made by the District Judge for cancellation of the certificate after conducting necessary inquiry contemplated under the Act and only sought for information whether the certificate is true or not. In such case, the District Collector is not under obligation to conduct inquiry under the provisions of the Act to cancel the certificate. Therefore, failure to conduct inquiry under the Act is not a ground to quash the proceedings at this stage. Apart from that, reinstatement of the petitioner into service in pursuance of the order passed by this Court setting aside the order placing the petitioner under suspension will not exonerate the petitioner from his criminal liability for the offences referred *supra*. Merely because no disciplinary proceedings are pending and suspension order was set aside by this Court for failure to follow the procedure under the provisions of the Act, the criminal proceedings shall not be quashed.

6. In *State of N.C.T. of Delhi Vs. Ajay Kumar Tyagi*<sup>2</sup>, the Apex Court held that merely because departmental proceedings are ended in favour of employee, criminal proceedings against him cannot be quashed. In the present case, the reason for closing of proceedings against the petitioner is the order passed by the Division Bench of this Court in W.P.No. 629 of 2018 but that order will not exonerate the petitioner from criminal liability. In *Ram Gopal Kumawat Vs. United Commercial Bank and*

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<sup>2</sup> (2012) 9 SCC 685

*another*<sup>3</sup>, the High Court of Rajasthan considered the scope of Section 482 of Cr.P.C. to quash proceedings in a criminal case and based on the principle laid down in *Ajay Kumar Tyagi* (2<sup>nd</sup> *supra*) held that mere closure of disciplinary proceedings may exonerate his liability in departmental enquiry but it will not exonerate his criminal liability. Therefore, based on the principle laid down in the above judgments, I am of the considered view that it is not a fit case to exercise power under Section 482 of Cr.P.C. to quash the proceedings.

7. Learned counsel for the petitioner has placed reliance on *Parbatbhai Aahir* (1<sup>st</sup> *supra*), wherein the Apex Court summarised the broad principles which emerge from the precedents on the subject of exercising power under Section 482 of Cr.P.C. However, the propositions are nothing but reproduction of the purport of Section 482 of Cr.P.C. Even if the principles are applied to the present facts of the case, securing employment by producing fake caste certificate under the category of reservation though not entitled is a matter of serious concern as genuine tribals were deprived of employment opportunity. In such case, the Court cannot exercise its inherent power to quash the proceedings. Therefore, I find absolutely no ground to exercise power under Section 482 of Cr.P.C. to quash the proceedings at this stage and the criminal petition is liable to be dismissed.

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<sup>3</sup> W.P.No. 1429 OF 1998

8. The criminal petition is accordingly dismissed. Pending miscellaneous petitions shall stand dismissed in consequence.

26.06.2018  
JSK

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M.SATYANARAYANA MURTHY, J.

