SMT JUSTICE T.RAJANI

CRIMINAL PETITON No.9751 OF 2013

ORDER:

This petition is filed, by the petitioner, seeking for quash of the proceedings against him in Crime No.96 of 2012 on the file of Vemulawada Police Station, Karimnagar District. The offences alleged are under Sections 420, 409 and 471 IPC.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing, for the 1st respondent as well as the counsel appearing, for the 2nd respondent.

3. The complaint is filed alleging that A1 and the complainant are brothers, being sons of Late Pochaiah, who applied for assignment of lands in Survey No.4/3, to an extent of Ac.2-00 guntas and in Survey No.4/4 to an extent of Acs.0-20 guntas, totalling to Ac.2-20 guntas, situated at Thettekunta village of Vemulawada Mandal of Karimnagar District. On assignment of the said lands, said Pochaiah developed the lands and has been cultivating the same. Notices were issued to Pochaiah, by the Government, for acquiring the said land for the purpose of house sites, for rehabilitation of people whose houses have been submerged in the mid-mandir project. On that, said late Pochaiah made a representation before the Mandal Revenue Officer, Vemulawada, on 29.09.2007, requesting to drop the proceedings of acquisition of land. Later, the land acquisition proceedings were initiated and the land was acquired. The Revenue Divisional Officer, who is the petitioner herein,

issued proceedings, dated 30.09.2009, fixing the ex gratia amount. A1, who is in collusion with revenue authorities, made misrepresentation to the authorities, by playing fraud and cheated the other family members, stating that said Gaddam @ Kolipaka @ Vedhira Pochaiah died and that he is the only legal heir to the said Pochaiah. He also stated that he is in possession of the said land and the same was included in the proceedings, dated 23.09.2009, which was communicated by the then Tahsildar, who is also an accused in this case. A1 collected a cheque by making misrepresentation to the revenue authorities. Pochaih died on 18.01.2011 and was very much alive during the years 2009 and 2010 and when the land acquisition proceedings were initiated and the amount was disbursed. A1 played fraud, in collusion with the revenue authorities, and cheated the family members. Further, with such misrepresentation and with collusion with the Tahsildar, Sircilla, he obtained a family member certificate from A4, reporting that Pochaih died and further produced a certificate that the other family members have no claim over the said lands and on *ex gratia* amount. Hence, the complaint seeking for prosecution of the revenue authorities.

4. The counsel for the petitioner submits that the petitioner, who is the Special Grade Deputy Collector and the Revenue Divisional Officer, does not have any role in the alleged fabrication of the death certificate of Pochaiah and the legal heir certificate, which is issued to A1.

5. The counsel for the 2nd respondent, on the other hand, submits that the complainant approached this court by way of petition viz., W.P.No.25868 of 2011, seeking for declaring the action of respondents in not conducting thorough enquiry and not taking any action, pursuant to the representation, dated 16.08.2011, as arbitrary and illegal and this court by way of interim order, dated 02.11.2011, directed the respondents therein to initiate criminal proceedings against those involved in the transactions.

6. But a perusal of the said order shows that pursuant to the interim orders of this court made in the said writ petition, the 1st respondent submitted a report stating that he caused necessary enquiry in the matter through the 2nd respondent and Rs.3,58,069/- was recovered from Gaddam Bala Swamy. In the said report, the 1st respondent stated that two Tahsildars were involved with A1, in the fraudulent withdrawal of *ex gratia* amount. Subsequently, by its report dated 09.12.2011, the 1st respondent submitted that the entire amount of Rs.7,16,138/- has since been recovered and hence, the disciplinary action has been initiated against the Tahsildar, Siricilla, and against the earlier Tahsildar, Vemulawada.

7. In the light of the above facts, which were recorded by this court in the above writ petition, it has to be understood that the direction given to the respondents to initiate appropriate criminal proceedings against those involved in the fraudulent transaction, to be a direction given to prosecute the persons, who were

responsible for the fraudulent transactions, who by proper understanding would be the Tahsidlar, Sircilla and Tahsildar Vemulawada. There is no finding given with regard to the involvement of this petitioner, in the fabrication of those documents, which became the basis for the disbursement of the compensation amount.

8. The counsel for the 2nd respondent also submits that in the letter addressed to the Collector, Karimnagar, by the Additional Joint Collector, Karimnagar, it is noted that this petitioner has issued orders for payment of *ex gratia* by virtue of the orders, dated 27.08.2009 in favour of Kolipaka Pochaiah and two cheques were also prepared, but the cheques were not distributed to the assignee, Pochaiah, even though he was alive. The reasons for the non-disbursement of those two cheques are not noted in the note file nor were recorded in the acquittance. It has been mentioned as not paid. It was also observed that on perusal of the file of RDO's office, an application has been filed on 06.10.2009 before the Land Acquisition Officer by one Monde Rajavva and others stating that they have entered into sale agreement through mediating their tekedar for house site purpose, by giving an amount of Rs.50,000/- as advance each to Kolipaka Balaswamy and Pathipaka Janardhan, retired MRO for the lands stated in the advance document in Survey No.4/3 and 4/4 by not knowing that these lands are government lands and they have requested for issue of house site pattas in the same survey numbers. The Tahsildar, Vemulawada vide proceedings in RC.No.E/287/08, dated 23.09.2009, has proposed for

payment of ex gratia to A1, stating that he is the legal heir and enjoyer of the land. On receipt of the said report, the RDO made an endorsement that "dispute - do not prepare cheques". Subsequently, an application was filed before the Land Acquisition Officer stating that earlier they have filed an objection petition about the *ex gratia* compensation to the assignees. The letter ends by saying that necessary departmental action may be initiated against the then Land Acquisition Officer and Revenue Divisional Officer, Sirscilla for committing the above mentioned lapses. But filing of criminal cases against the Land Acquisition Officer was stated as not required as it appeared that he was not involved in fraudulent transactions. It was also observed that the entire issue has taken place because of the urgency in resumption of the land and negligence on the part of the Tahsildar, Vemulawada in submission of vague report, without conducting proper enquiry and by the Land ACquistion Officer & Revenue Divisional Officer, Sircilla in not verifying the genuineness of the report submitted by the Tahsildar and office records.

9. Hence, from the above, it can be understood that the negligence on the part of the Revenue Divisional Officer was in not verifying the genuineness of the report submitted by the Tahsildar, which did not reflect correct facts, with regard to the death of Pochaiah and his legal heirs. The negligence of the Revenue Divisional Officer is also evident from the fact that he failed to verify that two cheques were prepared in the name of Pochaiah earlier, which speaks about the fact that Pochaiah was

alive at the time of land acquisition proceedings. But the record does not anywhere suggest that the Revenue Divisional Officer had any role or could have had any role in issuing the death certificate and legal heir certificate, which is the crux of the dispute, and no criminality can be attributed to the Revenue Divisional Officer and no criminal knowledge or intention can be imputed to him, when alone he would be liable for prosecution.

10. In view of the above, this court opines that continuation of further proceedings against the Revenue Divisional Officer, would be an abuse of process of law.

11. With the above observations, the Criminal Petition is allowed and the proceedings in Crime No.96 of 2012 on the file of Vemulawada Police Station, Karimnagar District, are hereby quashed.

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

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T.RAJANI, J

September 26, 2018
LMV