

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8727 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, is filed by the Petitioner/A-1 to quash the proceedings in Crime No.265 of 2017 of Kodad Rural Police Station, Suryapet District, registered for the offences punishable under Sections 420, 406, 409 and 468 R/w.34 of I.P.C.

2. Heard, the learned counsel for the petitioner, learned Public Prosecutor appearing for the respondent-State, and perused the material on record.

3. The allegation against the petitioner in the complaint lodged by the District Collector, Suryapet, is that the petitioner and other Managing Committee Members of the Primary Agricultural Co-operative Society, Kapugallu of Kodad Mandal, including employees therein, prepared fraudulent truck chits without actually procuring the paddy from the farmers and paid an amount of Rs.83,93,150/- to 63 bogus farmers but they have to pay an amount of Rs.88,54,580/- to 74 genuine farmers and accordingly the petitioner along with others cheated the genuine farmers and misappropriated the Government funds.

4. Learned counsel for the petitioner submits that earlier a case in Crime No.111 of 2015 was registered by the Kodad Town Police Station, Nalgonda District, for the offences under Sections 420 and 409 of I.P.C., which is the subject matter of C.C. No.276 of 2017, pending on the file of the Court of Judicial First Class Magistrate, Kodad, and the instant Crime was registered for the offences under Sections 420, 406, 409 and 468 R/w.34 of I.P.C. Thereby the present complaint lodged by the de-facto

complainant for the same offences is hit by Section 300 of Cr.P.C. and requested to quash the proceedings.

5. Learned counsel for the petitioner, during the course of arguments, drawn the attention of this Court to the earlier Crime No.111 of 2015, which is the subject matter in C.C. No.276 of 2017 and also the order dated 28.03.2017 passed in I.A. No.244 of 2016 in C.T.A. No.46 of 2016 by the Co-operative Tribunal at Hyderabad setting the surcharge proceedings initiated by the Government against this petitioner, under Section 51 of the Telangana Co-operative Societies Act, 1964 (for short, 'the Act') to contend that the allegations made in the present complaint are almost identical in C.C. No.276 of 2017, pending on the file of Judicial First Class Magistrate, Kodad, and once a Crime was registered and it is pending adjudication before the Magistrate, lodging of 2nd complaint for the same offences is hit by Section 300 of Cr.P.C. and prayed to quash the proceedings in Crime No.265 of 2017.

6. Learned Public Prosecutor appearing for the respondent – State opposed the Petition.

7. Though the allegations in the earlier complaint are identical to some extent with the present Crime No.265 of 2017 but the offences allegedly committed by the petitioner in the earlier complaint are only 420 and 409 of I.P.C. whereas the offences allegedly committed by the petitioner and others in the present complaint are 420, 406, 409 and 468 R/w.34 of I.P.C. but part of the allegations are not identical. When the Crime was registered and charge sheet is filed against the petitioner in the earlier round of litigation, which is the subject matter in C.C. No.276 of 2017, the proceedings against this petitioner in the present Crime No.265 of 2017

for the aforesaid offences cannot be quashed on the sole ground that it is hit by Section 300 of Cr.P.C.

8. Section 300 of Cr.P.C. says a person once convicted or acquitted not to be tried for the same offence. It further says that a person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

9. In the present facts of the case, in C.C. No.276 of 2017 pending on the file of Judicial First Class Magistrate, Kodad, trial is not yet commenced. Therefore, Section 300(1) of Cr.P.C. has no application to the present facts of the case and thereby the petitioner is not entitled to take advantage of the benefit under Section 300 of Cr.P.C. However, the Station House Officer, Kodad Rural Police Station, Suryapet District, is directed to verify the allegations made in the earlier complaint in Crime No.111 of 2015, on the file of Kodad Town Police Station, pending on the file of Judicial First Class Magistrate, Kodad in C.C. No.276 of 2017 with the present Crime No.265 of 2017 and if they are not identical but for different incidents, the Station House Officer, shall proceed against the petitioner and file final report before the Magistrate concerned and in the event of filing any charge sheet therein, the Magistrate concerned is directed to decide both the cases *i.e.*, C.C. No.276 of 2017 on the file of Judicial First Class Magistrate, Kodad, and in C.C. to be registered, if any, basing on the final report filed by the respondent in Crime No.265 of 2017 and pronounce the judgments simultaneously on the same day.

Accordingly, with the above directions, the Criminal Petition is disposed of.

Miscellaneous petitions, if any, pending in this Petition shall stand closed.

M.SATYANARAYANA MURTHY, J

Date: 20.08.2018.

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