

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.841 of 2011

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioners/A5 and A6 seek to quash the proceedings against them in Cr.No.13 of 211 of Central Crime Station, Hyderabad.

2) The *defacto* complainant lodged a private complaint before the XII Additional Chief Metropolitan Magistrate, Hyderabad which was forwarded to the police for investigation and was registered as Cr.No.13 of 2011 for the offences under Sections 409, 420, 295, 406, 218, 200 r/w 120B IPC against 24 accused.

3a) Briefly stating, the complainant claims to be a RTI activist, social worker, founder and President of Mazlumeem-E-Ummatay Mohammadiya political party. Except A1, A2 to A4 and A7 to A24 are the employees of A.P. State Wakf Board. Petitioners/A5 and A6 are Mutawallis. A1 is the businessman. It is alleged that all the accused conspired together and committed many misdeeds causing heavy monetary loss to the Wakf Board and acted detrimental to the faith and interest of Muslim public.

b) Sofaras petitioners/A5 and A6 are concerned, it is alleged A6 who is the father of A5, was appointed as Mutawalli of the Wakf institution and he was removed under Section 64 of the Wakf Act, 1995 (for short "Wakf Act") following various allegations that he violated Section 56(3) of Wakf Act by executing rental agreement for the period beyond one

year and also failed to submit the statement of accounts of subject Wakf institution besides committed other acts. A6 preferred Appeal No.3 of 2003 before the Wakf Tribunal and the said appeal was allowed and thereafter, the Wakf Board preferred revision in C.R.P.No.2641 of 2005 in High Court and the same is pending. Thereafter, A2, A7 to A12 in collusion appointed A5 as temporary Mutawalli under proceedings No.62/BS/M/Secunderabad/99/Zone-I dated 07.07.2007 subject to the result of C.R.P.No.2641 of 2005. A2, A7 to A12 hatched criminal conspiracy to transfer Mutawalli ship in favour of A5 contrary to Wakf Act. It is further alleged that there is a grave yard Takiya Amanullah Shah near Boats Club, Secunderabad. The said place is sacred for the Muslims and it is a place of worship. A1 taking advantage of illegal activities of A2 to A23 conspired with them and thereby erected big hoardings with different advertisements in the said grave yard. A2 to A23 knowing fully well that there was a resolution against such allowing hoardings in grave yard, still permitted A1 to erect the hoardings and thus caused hurt to the religious sentiments of the Muslim public. By such illegal activities A2 to A23 gained more than Rs.30 lakhs. The complainant narrated similar other misdeeds allegedly committed by the accused.

The investigation is reported to be pending.

4) Learned counsel for petitioners argued that complaint is bereft of truth and aimed at tarnishing the image of the employees of the Wakf Board and petitioners. He submitted this Court in its order dated

18.02.2011 in CrI.P.No.351 of 2011 quashed the proceedings against A1 and hence proceedings may be quashed against the petitioners also.

5) A perusal of FIR shows that sofaras petitioners are concerned, the allegation against them is that A6 is the father of A5 and he was officiating as Mutawalli and he was removed from the post of Mutawalli and he preferred appeal before the A.P.Wakf Tribunal against the charges levelled against him and the said appeal was allowed and against the said order Wakf Board preferred C.R.P.No.2641 of 2005 before the High Court and the same is pending. Since Admittedly, C.R.P.No.2641 of 2005 is pending adjudication, the allegations regarding the misdeeds said to be committed by A6 which lead to his removal cannot be considered. The other allegations are that A2 to A23 conspired together and granted permission to A1 for erecting big hoardings in Takiya Amanullah Shah grave yard. The said allegation is concerned, this Court in CrI.P.No.351 of 2011 has already quashed the proceedings against A1. In my view, A5 and A6 also stand on the same footing as that of A1.

6) Considering all these facts, this Criminal Petition is allowed and proceedings in Crime No.13 of 2011 of Central Crime Station, Hyderabad, are quashed so far as petitioners/A5 and A6 are concerned.

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

U. DURGA PRASAD RAO, J

Date: 31.08.2018
Murthy