

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.400 OF 2019

ORDER:

The petitioner is A-23 in C.C.No.110 of 2018, on the file of the learned XII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, taken cognizance for the offences punishable under Sections 406, 420 & 120B read with 34 of Indian Penal Code, 1860 and Section 38(2)(3)(4) of Andhra Pradesh Mutually Aided Cooperative Societies Act, 1994. It is outcome of Crime No.232 of 2014 registered on the report of the then Additional Registrar & Tribunal Member Gurajala Srinivasa Rao, 2nd respondent to the quash petition. The 2nd respondent served.

2. In the present quash petition, the contentions are that the petitioner was co-opted as a member of the society among two directors to the board with A-24-Mahboob Shariff and A-25-M.Muralidhar in place of outgoing directors A-17-V.Hanumantha Reddy, A-22-Y.Krishna Vardhan Reddy and A-20-M.Nageswara Rao and it is his case that he submitted his resignation within five days on 31.03.2012 itself and there is no basis for the police to implicate and file charge sheet for the so-called cheating or criminal misappropriation or breach of trust of any funds of the society to link with other accused for the alleged embellishment.

3. Heard learned counsel for the petitioner/A-23 and learned Public Prosecutor representing the 1st respondent State and perused the grounds in the quash petition referred supra and the police final report in the form of charge sheet and the bail order of the Court at crime stage in CrI.P.No.1417 of 2015, dated 02.03.2015, granting anticipatory bail to the petitioner with observation that he was hardly for ten days

and submitted his resignation on 31.03.2012 that was acknowledged by Secretary of Society (A-1) and he was only co-opted director, not elected and the alleged misappropriation mainly by A-1 and A-2 that taken place prior to that and at the relevant time he was not in the capacity of director of society at any point of time even from the enquiry report for the alleged fraud or misappropriation.

4. Even from perusal of the charge sheet, particularly from last but two pages, it speaks the so-called embellishment upto 2010-11 and even the layout application of the society to GHMC was on 29.02.2012, for which there was a direction to remit amount towards fees and charges of layout approval and the amount shown incurred for transport charges for the general body convened on 04.09.2011. That is also one of the amounts shown under embellishment under head of embellishment and even from the perusal of earlier pages of the charge sheet shows the statements of society seen from the bank account shows heavy expenditure of Rs.54.17 lakhs incurred in 2010-11. Even any direction in the W.P.No.29232 of 2012, dated 18.09.2012, in relation to the so-called embellishment upto 2011 and not for any period subsequent to the date of his admission on 26.03.2012 much less before his resignation within five days on 31.03.2012. Once such is the case, there is nothing for the police in mentioning so vaguely of he is also privy with others in the conspiracy, which must be established of any criminal concert with plan for such privy prior to the so-called occurrence and the alleged embellishment is as referred supra when upto 2011 and not subsequent to that. The question of implicating for the five days co-opted director as if privy earlier does not arise.

5. Thereby, the Criminal Petition is allowed by quashing the proceedings against the petitioner/A-23 in C.C.No.110 of 2018 on the file of learned XII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

Date: 25th February, 2019

KL



THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO



CRIMINAL PETITION No.400 OF 2019

Date: 25th February, 2019

KL