

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

CRIMINAL PETITION No.255 OF 2017

ORDER:

The petitioner is accused No.1 in C.C.No.268 of 2016 pending on the file of learned Additional Judicial Magistrate of First Class at Sanga Reddy, Medak District, taken cognizance for the offences punishable under Sections 420, 468 and 463 of the Indian Penal Code, 1860, against her, besides one Ganjigudem Naresh, Computer Operator, and one Akkinapuram Mahesh, un-employee. Accused Nos.1 and 2 are the Principal and Computer Operator, respectively, of MNR Dental College, Fasalwadi, Sanga Reddy Mandal. The crime registered is from the report of Chinthalla Shankar, father of Kumari Chinthalla Manasa, BDS student. The said Chintalla Shankar is a Medical Officer at Shankarampet Village and Mandal by then. The crime registered was on 17.03.2015 as F.I.R. No.70 of 2015 by Sanga Reddy Rural Police Station, Medak District, for the offences supra and after investigation, by citing the *de facto* complainant and his daughter as L.Ws.1 & 2, besides Yennavaram Vijay Kumar, Dr. Besta Radhika and Sri Mannem Chalapathi, as three more witnesses, with two Investigating Officers L.Ws.6 & 7, filed the charge sheet from the investigation. It is now from the police final report taken cognizance impugning herein so far as the petitioner/accused No.1 concerned.

2. Heard learned counsel for the petitioner/accused No.1, learned counsel for respondent No.2/*de facto* complainant and the learned Public

Prosecutor representing the 1st respondent State. Perused the material on record.

3. Before coming to the contentions and rival contentions in the quash petition, the sum and substance of the accusations from the F.I.R. and the report of L.W.1-*de facto* complainant are that the daughter of *de facto* complainant, by name Manasa - L.W.2, joined under Management quota in the said Dental College and it was bargained for the admission Rs.7,00,000/- to pay in installments and at the time of admission, paid Rs.1,00,000/-. She appeared for first year exams and completed two out of three subjects and attending second year classes and the subject not completed is Physio-biochem. That exam was due to write by June, 2012. In June, 2011, the management fee of Rs.50,000/- even paid. It was demanded to pay further and even though hall-ticket was received, daughter of *de facto* complainant was not allowed to write the examination and he paid the management fee due of Rs.1,10,000/- in May, 2012, and on that day, the clerk of the Dental College accused No.2 supra, by name Naresh, received the exam fee and stated along with his daughter, there is another girl student and they are sending the fee under management quota. Even by 30.06.2012, the hall- tickets of all the students were received, but the hall ticket of the daughter of *de facto* complainant, by name Manasa, was not received and for three days continuously before the date of exam, he went and asked for the hall ticket and what was stated is they were talking with the university authorities and she could get the hall-ticket and made believe to write Physio-biochem exam on 30.06.2012. One photostat

copy of hall-ticket given to his daughter in making her to write theory exam, so also practical exam and taken back the hall-ticket on the pretext of checking. His daughter Manasa, same is also her statement of, made the same believe and she did not inform the *de facto* complainant about it. However, the result received as detained. In this regard, when *de facto* complainant went to the Principal of the College, Dr. S.Sujatha Gopal (petitioner/accused No.1) and when questioned, she stated she was going to enquire in this regard and he made it clear to her that unless he get justice to his daughter, he may choose to file a case and he came back to his place of job Shankarampet Village. Two days later, the Assistants of the Principal, by names Naresh and Mahesh/Accused Nos.2 and 3 supra, along with another, came to him and persuaded of they are going to help and not to file any complaint and they have given a Rs.50/- stamp paper and promised to get through Court permission for writing exam. He made believe and made rounds to them for three years all through therefrom and his daughter Manasa lost her academic, also felt mental agony without rest or sleep, because they have issued a fake hall-ticket and made believe in allowing to write a fake exam and for the deception by said principal Dr. S.Sujatha Gopal, Management and Vice Chairman, to take action. It is also mentioned that regarding the fake hall-ticket and fake exam, there is a video coverage with him.

4. Coming to the statement of said Manasa, as L.W.2, in the course of investigation, it is stated that she was attending second year classes, even she failed in one of the exams i.e., Physio-biochem of first year and even

though she was prepared to pay fee to write that exam, it was not received and the Principal of the College asked to pay management fee. Therefrom, her father came and paid Rs.50,000/-. Even then, they did not permit her to write the exam and even she came to know of the first year remained exam supra to write hall-ticket received by college management, they did not allow her to write exam thereby, she remained absent. The Principal of the College/petitioner/accused No.1 even made out to her that she was not going to allow her to attend the exam as H.O.D. permission is to be obtained and management fee is stated to be paid by saying till then not to attend even classes and when she informed the same to her father, he paid Rs.1,10,000/-, besides exam application form fee of Rs.3,000/- and said Naresh/accused No.2, who received the fee informed of that the application of her and the other were going to be sent and she was allowed to stay in the hostel therefrom in preparing to write the Phsio-biochem exam of first year remained. However, she did not receive the hall-ticket for that exam along with others and when she questioned the Principal, she was responded saying application form sent lately and it may come late. Two days later, she went to Naresh/accused No.2 and he informed her that after receiving hall-ticket, he could intimate her to collect. On 30.06.2012, first year Physio-biochem exam conducted. When she went there to attend, she and her father were sent out by saying if hall-ticket received that would be intimated, however, ten minutes before the exam on that day, Naresh/accused No.2 came to them and asked to write exam and shown the hall-ticket and on seeing it, she suspected and questioned Naresh. He made

believe saying it is a hall-ticket received on fax and when she was attending to write the exam with that hall-ticket copy, the Principal, while checking the hall-tickets, verified and questioned as to who have issued and when she informed that it was issued by Naresh/accused No.2, she called Naresh and questioned and talked to him and both of them went into her office room in this regard by make her to wait outside the office room for ten minutes and later, Naresh/accused No.2 and madam came there and asked her to attend the exam. However, there was no O.M.R. sheet at the table and when she informed the Invigilator, the Invigilator sent a word to Naresh and secured O.M.R. sheet and while writing the exam, the Invigilator brought attendance sheet to sign and she also signed therein and written the theory exam and on 17.07.2012, there was practical exam and she attended to write and waiting for the Invigilator signature and shown the hall-ticket, however, the number is not present and she was sent to Physiology Lecturer and therefrom, to the Principal and asked about whether she has written the theory exam and as to who granted permission and she informed of Naresh has issued the hall-ticket and it was checked and the Principal madam again called Naresh over phone and questioned, who has given the hall-ticket and by taking the attendance sheet, obtained the signature, the hall-ticket returned and the practical exam accordingly completed and when coming out, Naresh came there and asked for return of the hall-ticket by saying he was going to give the original hall-ticket and taken the same. However, later the result shown as detained. When she

questioned the Principal, she wanted to say by enquiry as to what happened.

5. This is the sum and substance in the investigation in filing the charge sheet against three accused, of whom the petitioner is accused No.1. Even from the two versions of the *de facto* complainant and LW.2, one is as if called Naresh, verified and questioned and again came along with Naresh and given the so called hall-ticket and permitted to write the theory exam and the other with different version in saying when went to practical examination, the Invigilator questioned and went to the lecturer concerned, who has taken to the Principal, and found the hall-ticket not genuine and however, for one reason or other, she was permitted and has written the practical exam according to her, it is clear that the Principal/accused No.1 was objecting to the writing of exam on doubting the hall-ticket. There is nothing to show that she is privy with Naresh/accused No.2, if at all it is Naresh that committed any offence in collecting the fee without even getting of hall-ticket with pretext by giving of a duplicate hall-ticket. That was even suspected by the petitioner/accused No.1. Then, if at all any offence is only made out by Naresh/accused No.2 and nothing against the petitioner/accused No.1 or accused No.3, leave about the fact, even from the F.I.R., as referred supra, the *de facto* complainant sought for taking action against the College Management, Principal and Naresh. However, the charge sheet was not even filed against the College Management and if at all any deception played is in collecting the fee, including of the hall-ticket through Naresh by the College and nothing to say, the Principal

anyway benefited by privy with Naresh extraneously without remitting the amount to the College, much less the concerned account for the Management quota after payment. Having regard to the above, there are no sustainable accusations so far as the petitioner/accused No.1, Principal of the College, that too without array of accused the Management of the College in the charge sheet or in the cognizance order, apart from no offence of cheating by using as if genuine a forged document or any forgery or any cheating from the Principal of the College referred supra, even taken for argument sake as a gospel truth of said version of having suspected, while checking the hall-ticket called Naresh to her office and questioned him and even later, from what Naresh stated, even she did not object, that cannot be called a privy in deceiving.

6. Having regard to the above and in the result, the Criminal Petition is allowed quashing the proceedings against the petitioner/accused No.1 in C.C.No.268 of 2016 pending on the file of learned Additional Judicial Magistrate of First Class at Sanga Reddy, Medak District.

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

DR. B.SIVA SANKARA RAO, J

February 21, 2019.
MD



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



CRIMINAL PETITION No.255 OF 2017

Date: 21st February, 2019

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