HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.1185 of 2017

ORDER:

1) The present revision is filed by accused No.2 under Sections 397 and 401 Cr.P.C., questioning the order, dated 23.11.2016, passed in Crl.M.P.No.744 of 2015 in C.C.No.9 of 2015 on the file of the Principal Special Judge for SPE and ACB Cases-cum-IV Additional Chief Judge, City Civil Courts, Hyderabad, wherein and whereunder an application for discharge filed by the petitioner/ accused No.2 was dismissed.

2) A charge sheet came to be filed against the petitioner for an offence punishable under Section 12 of the Prevention of Corruption Act, 1988. The allegation against the petitioner is that on the directions of accused No.1, the petitioner/ accused No.2 accepted the bribe of Rs.50,000/- from LW.2, for doing an official favour ie., process of files of LW.1 for regularization, as such, the petitioner/accused No.2 abetted accused No.1 in commission of offence.

3) Heard learned counsel for the petitioner and learned Special Public Prosecutor for ACB Cases.

4) Learned counsel for the petitioner submits that the petitioner/accused No.2 is the son of accused No.1, who was working as Special Deputy Collector, Urban Land Ceiling, Chandravihar building, Nampally, Hyderabad. On the date of incident, the petitioner/accused No.2 went to the office of his

father only to pick up his father. On that day, LW.1 forcibly kept the amount in his hands. It is further stated that the petitioner was aged about 19 years at the time of incident, studying Engineering and he has no knowledge about the bribe issue and he was there in the office only to pick up his father but not otherwise. He further submits that the file of the complainant-LW.1 with regard to regularization has already been approved by accused No.1 on 28.12.2013 and the said file was circulated to the higher authorities, as such, demanding bribe on 14.02.2014 for doing official favour would not arise.

5) Learned Special Public Prosecutor would submit that the petitioner was present in the office of accused No.1 at the time of incident and accused No.1 instructed the assistant of LW.1 to give the bribe amount to his son ie., petitioner. Immediately the assistant of LW.1 gave the bribe amount to the petitioner and the petitioner took the amount and handed over the same to accused No.1. He further submits that there are ample and sufficient grounds to proceed against the petitioner as such the petitioner is not entitled for any relief.

6) The point that arises for consideration is "whether the petitioner/accused No.2 abetted accused No.1 and whether the prosecution established necessary ingredients under Section 12 of the Prevention of Corruption Act"?

7) The allegations in the complaint would show that the regularization files belonging to the plots of LWs.1 and 7 were

pending in the ULC Office and accused No.1 surveyed their plots three times within three months and their files were pending with him. It is further alleged that accused No.1 demanded Rs.1,50,000/- to recommend the two files to higher officials, otherwise he is reluctant to do the work. But a perusal of the statements of LWs.4 and 5 would show that the file belongs to LW.1 has already been approved by accused No.1 on 28.12.2013 and on the same day it was circulated to Special Officer and the same was approved by him and later it has been submitted to State Level Screening Committee for approval. Since the file has already been approved by accused No.1 on 28.12.2013, the question of demanding bribe on 14.02.2014 for approving the file would not arise.

8) Section 12 of the Prevention of Corruption Act provides that whoever abets any offence punishable under Section 7 or Section 11, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than three years, but which may extend to seven years and shall also be liable to fine. The Prevention of Corruption Act does not specifically define abetment meant under Section 12. So the definition of abetment under the Indian Penal Code will apply. To constitute abetment of an offence there must be some instigation to do an act of offence, or the alleged abettor must have intentionally aided or facilitated the commission of a crime, or the alleged abettor must have engaged in some conspiracy with one or more other person or persons for the

commission of an offence. Thus the definition of abetment under Section 107 IPC shows that to constitute the abetment as defined under the law, there must be some nexus between the acts of the alleged abettor and the act of offence abetted.

9) In this case, the petitioner/accused No.2 has nothing to do with the alleged offence and he gone to the office only to pick up his father. The petitioner is not the person who has assisted accused No.1 to commit a crime or to encourage accused No.1 to commit the crime. Apart from that none of the witnesses were stated about the involvement of the petitioner/accused No.2 in the issue and there are contradictions in the statements of LWs.1 and 7 and LWs.4 and 5. LWs.1 and 7, who are husband and wife, have stated in their statements that their files with regard to regularization of their lands was pending before the ULC Office, but LWs.4 and 5 in their statements clearly state that the ULC office dispatched the file on 02.01.2014 and the said files are pending at CCLA Office. Since accused No.1 has already approved the files on 28.11.2013 and the said files are pending before CCLA Office, the question of demanding bribe by accused No.1, who was working in ULC office, and the petitioner/accused No.2 abetted accused No.1 on 14.02.2014, does not arise. Section 12 of the Prevention of Corruption Act, cannot be applied to the acts of accused No.2. Therefore commission of any offence by accused No.2 is not proved beyond all reasonable doubt. Hence, this Court is of the view that it is a fit a case for discharge.

10) In the result, the Criminal Revision Case is allowed setting aside the order, dated 23.11.2016, passed in Crl.M.P.No.744 of 2015 in C.C.No.9 of 2015 on the file of the Principal Special Judge for SPE and ACB Cases-cum-IV Additional Chief Judge, City Civil Court, Hyderabad and accordingly, all further proceedings against the petitioner in the above C.C. No.9 of 2015, are hereby quashed. Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE G. SRI DEVI

14.08.2019
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