

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.8227 of 2017

ORDER:

Petitioners are accused in Cr.No.1458 of 2016 of L.B.Nagar Police Station, Rachakonda Commissionerate, outcome of the report of the 2nd respondent who is the student of Mahatma Gandhi Law College for which A.1 Secretary-cum-Correspondent, A.2 is the Principal and A.3 is the Computer Operator and she is now shown as practicing advocate and the crime registered for the offences punishable under Sections 120 B, 420 IPC & Section 3(2) (V(a)) of SC/ST (POA) of Amended Act, 2015 dated 30.12.2016 which report reads in nut shell that she studied in the college 5 years law course during 2011 – 2016 June with Admission No.2332.

2. On 22.11.2016, consequent to the High Court orders in W.P.No.39922 of 2016, the Convenor, Telangana LAW CET displayed the fee structure for the block period from 2011-2018 on the official website by letter dated 23, 25-11-2016 through which the defacto complainant came to know that the Government prescribed RS.9,600/- per annum (plus Rs.1000/- Registration fee, Rs.1000/- Student related special fee and Rs.500/- refundable Library deposit) for LLB (3 YDC and 5 YDC) course respectively in block periods supra and A.1 as Secretary and Correspondent of the College, A.2 Principal and A.3 Computer Operator in collusion with 6 others collected Rs.9,600/-+ Rs.4,500/- on the ground of her caste for the academic years 2011-2016 though they are empowered to collect as referred supra Rs.9,600/- + Rs.2,500/- and thereby collected about Rs.2,000/- excessively per annum and further fraudulently extorted Rs.9,600/- on 29.08.2016 for giving back the original academic certificates and for issuing TC consolidated Memo

and bonafide certificates on the pretext of pendency of her scholarship with Government of Telangana which is contrary to Order No.796/Stat/Acad/2012, dated 6-7-2012 of Registrar, Osmania University thereby the acts of the accused attract the penal consequences. Therefore, for the offences stated supra, the crime was registered which now sought for quashment.

3. The counsel for the petitioner contends that very prosecution is unsustainable and the bonafides collected whatever as per the Government norms more particularly from the letter of APSCHE/LAW/Special FEE/2008, dated 26.09.2008 of A.P.State Council of Higher Education addressed to the President of the Private Law Colleges Management Association of what are the guidelines covered by G.O.Ms.No.216 dated 11.09.2008 equally applicable to all unaided private law colleges by enclosed the said G.O.Ms.No.216 as per which Rs.9,600/- + Rs.4,500/- is legally being collectable even from the face value of the allegations stated supra no offence is made out and thereby the continuation of crime proceedings are nothing but to abuse and liable to be quashed.

4. The contention of the learned Public Prosecutor and the counsel for the defacto complainant/2nd respondent opposing the same is that as referred in the W.P.No.39969 of 2016 of another Single Judge of this Court on 22.11.2016, it is mentioned about the clarification issued by the Government on 23.11.2016 by letter No.235/UE/2014 of 21.11.2016 addressed to the Consultant, Telangana Admission and Fee Regulatory Committee and the learned Government Pleader referred the same in the course of submission before the learned Single Judge and there from disposed of the writ petition with the observations that in view of the clarification issued by the Government, Principal Secretary,

Higher Education in directing to issue a statement through daily newspapers about the decision of the Government in observing the fee structure already determined for previous academic year and TSAFRC also directed to give wide publicity through daily newspaper and to upload the fee structure on the website of TSAFRC, Convenor of LAW CET and intimate to all the colleges and as per which what was collected is beyond what was prescribed which is nothing but cheating. As referred supra in the report registered as crime and a legal notice was issued to the accused persons by the defacto complainant on 07.10.2016 in this regard.

5. The District Consumer Disputes Redressal Forum, Ranga Reddy by order dated 30.08.2018 in CC.No.2 of 2017 filed by the self same defacto complainant against the accused persons 1, 2, 3 herein and one Papi Reddy, Chairman of HCHE and Chairman, AFRC and Registrar- Osmania University observed that the complaint was partly allowed in directing the said Goverdhan Reddy, Secretary and Correspondent of Mahatma Law College to refund Rs.17,100/- to the complainant with interest @ 9% from the date of complaint till realisation and also to pay Rs.5,000/- towards compensation for mental agony and Rs.5,000/- costs while dismissing the claim against other respondents. Needless to say, it is subject matter of the appeal with stay if any.

6. Heard and perused the material on record.

7. Leave about these facts any justification by the counsel for the accused persons of pursuant to letter dated 26.09.2018 applying to G.O.Ms.No.216 to the private aided law colleges in fixing the fee structure to collect Rs.9,600 + Rs.4,500/- and no excess as claimed of Rs.2,500/- also leave about the writ petition order of 22.11.2016 only and any legal notice dated 07.10.2016 and the order of Consumer

District Forum if any without even going into the merits for the purpose even from the face value of the very writ petition where the Mahatma Gandhi Law College was the respondent arrayed as R-4, allegations are against the college and so far as the present report is concerned, there is no report against the college but against the Secretary-cum-Correspondent, Principal and Computer Operator and there is no vicarious liability under IPC against them for the IPC offences or under SCs/STs (POA) Amended Act scheduled from IPC offences to apply without array of the college.

8. Having regard to the very crime registered on the said report, not against the college but against the officials of the college per se is not sustainable from the Constitution Bench expression of the Apex Court in **Sunil Bharti Mittal v C.B.I**¹ from paras 35 to 41.

9. Accordingly and in the result, Criminal Petition is allowed quashing the proceedings in FIR.No.1458 of 2016 on the file of the L.B.Nagar Police Station, Rachakonda Commissionerate. Consequently, CrI.M.P.No.12215 of 2017 stands dismissed.

10. Miscellaneous petitions, pending if any, shall stands closed.

Dr. B.SIVA SANKARA RAO J,

20.02.2019

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¹ 2015(4) SCC 609