HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

Criminal Petition No.10372 of 2018

ORDER:

The quash petition is filed by the sole petitioner who is A.4 among 8 accused (as per chargesheet showing A.5 to A.7 in abscondence) in C.C.No.112 of 2014 on the file of the XII Addl.Chief Metropolitan Magistrate, at Hyderabad outcome of Cr.No.11 of 2005 of Begumpet Police Station registered for the offences punishable u/sec. 420, 471 and 468 IPC, on the complaint of 2nd respondent-defacto-complainant, with the contentions in the quash petition that the defacto-complainant is a Minister for Rural Development and Water Resources and Employment (for short, 'RD&WR&E') in the then composite State of Andhra Pradesh sometime in the year 2005. In fact, he did not complain to the police on the alleged date of complaint-04.01.2005 that but his letterhead was used for the purpose of addressing a letter to the Consulate General of Republic of France by A.6, A.7 and A.8 for the purpose of obtaining VISA. The petitioner is implicated in the said case on the alleged confession of A.6 to A.8 who were trying to get VISA of Republic of France. Even in the chargesheet there are no specific allegations against the petitioner as to how he is liable in the criminal case to implicate for no criminal offence was committed by the petitioner and as such prosecution of the petitioner is an abuse of process of law and is liable to be quashed as per the law laid down by the Apex Court in Indian Oil Corp. Vs. NEPC Ltd[1] para-2. Hence the quash petition.

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[1] 2006(6) SCC 736

2. The learned Senior counsel for the petitioner reiterated the same in the course of hearing and seeking to quash the proceedings against the petitioner. The learned Public Prosecutor vis-à-vis the learned counsel for the defacto-complainant-2nd respondent opposed the same saying the police after investigation filed chargesheet from the prima facie accusation against as many as 8 accused of whom the A.5 to A.7 in abscondence but for others facing the accusation in C.C.No.112 of 2014 taken cognizance by the learned Magistrate for the offences supra after examination of 7 witnesses by citing 14 witnesses in all including investigating Officer, thereby sought dismissal of the quash petition.

3. Heard both sides and perused the material on record.

4. So far as the main accusation for the offence u/sec. 420 IPC is concerned, there must be dishonest intention from the inception and for the offence u/sec.471 IPC is concerned, using as genuine a forged document. From the substance of the prosecution case covered by the police investigation summed up in the chargesheet, it appears on 04.01.2015 at 15.15hours the defacto-complainant-R.2-D.Srinivas, the then Minister for RD&WR&E in the State of Andhra Pradesh received a letter with copies of documents from the Consulate General De France A Bombay stating he issued a letter recommending issue of tourist visa to his two nephews and his Company Director and the Consulate General De France A from Bombay issued warrant with a condition of on their return from France, they have to appear before the Consulate General supra and requested the complainant-R.2 to direct his two nephews and Company Director in that regard

and the defacto-complainant therefrom replied stating he has no nephews and Company Director as mentioned above and the so called recommendation letter might be a forged one. It is stated that the signature in the letter was totally fake and he has no any company to have Manager or Director and might be some unknown persons with forged recommendation letter to Consulate General De France A Bombay for getting Visas to the applicants Varudhappan Shanker-A.6 and Rajendaran Karthick-A.7 who are in abscondence including Mohd. Meraj Ahmed-A.8 and it is therefrom the police on said report registered the crime and in the course of investigation, the defacto-complainant stated the same and the Investigating Officers proceeded to Chennai and recorded the statement of L.W.2-Raghuram, Asst. Passport Officer, Chennai, who verified the records and confirmed the passports bearing No.E7474062 to A.6, on 23.12.2003, passport bearing No.E6590499 to A.7 on 29.09.2003 were issued and in the course of further investigation, the Investigating Officer proceeded to Imperative Oversees Education Consultation and Lifemore, Humayun Nagar, Mehdipatnam, Hyderabad where examined L.W.3- Humayan Ali Mirza and owner of Mirza block leased the same to L.W.4-Mohd. Akbar Hussain, who allowed the A.1-Syed Khusro Mohiuddin, Proprietor of Imperative Enterprises for running business in the name of Oversees Education Consultancy with name of "Imperative Oversees Education Consultation and Lifemore" being concerned of A.1 and in the course of further investigation, the A.8 supra was apprehended by the L.W.12-the Investigating Officer on 07.06.2008 when questioned he made voluntarily disclosure in the presence of L.W.5-N.Mukesh and

L.W.6-Mohd.Siddique, the mediators to the disclosure panchanama stating 4 years back he obtained Visa to France with the help of Agents namely Syed Khusro–A.1 and his friends Shaik Azar-A.2, Rajendra Kumar Gampa-A.3, shakeel-A.4, David-A.5 knowingly that they have submitted false documents and visited France for a week and was in a plan to go to United Kingdom with the help of A.1-Khusro and his friends by submission of false documents as is earlier and meanwhile the police caught him at Ameerpet bus stand on 07.06.2008 and further stated that he lead them to Fresh Point Hotel at Khairatabad where arranged to talk with A.1-Khusru regarding arrangements for visa to United Kingdom and produced his passport bearing No.E5874397 that was seized by the L.W.5-Investigating Officer under the panchanama and whenever proceeded to Fresh Point Hotel found the A.1 shown by the A.8 supra and identified with his particulars and A.1 was apprehended by the Investigating Officer-L.W.11 and when questioned, A.1 also made a voluntary disclosure of his role from which disclosure statement recorded in the presence of self-same mediators supra of A.1 of he is running an office of Imperative Careers at Mohidipatnam and his business is to make arrangements of visas to customers going abroad and he is doing business with the help of his friends surpa A.2 to A.5(A.4-the petitioner herein) and also made a disclosure that about 4 weeks back he along with his friends supra created false recommendation letter of defacto-complainant-D.Srinivas, Minister for RD&WR&E and managed to get visa to A.6 to A.8 and made further disclosure of collected 1.5lakhs from A.8 to get Visa to go to France and A.8 also visited France on the said Visa as per the false recommendation letter of the defacto-complainant supra and there is further plan to arrange visa to A.8 to go to United Kingdom based on fake documents and they had come to Fresh Point Hotel to meet A.8 for collecting passport from him and 5 other customers to visit United Kingdom and made a further disclosure of he is in possession of one pen which is stolen from MLA of Rajasthan that was also seized in the presence of self-same mediators and the A.1-Khusro led them to M/s Imperative Enterprises, Humayunnagar, where shown 4 Indian Passports that were seized of viz: 1) Syed Ghouse Moinuddin-B3607023, 2) Azam Ali-G6593591, 3) M.A.Khddus-F6360385, 4) Syed Shoukat Ali-B1002657 and 5) Aktar Unnisa Begum-E1807178 and police custody of A.5 obtained further and in the course of further investigation by the L.W.5 pursuant thereto, the A.1-Khusro supra was brought from Central Jail to CCS and when questioned in the presence of LWs.7 and 8-mediators, he made several disclosures of the process of creating fake documents by fabrication with false experience letters, recommendations letters, statements in his computer/laptop and some C.Ds. containing those models for its preparation and for speedy process at his residence Yakatpura and therefrom seized one Laptap printer, 4 CDs, models for preparing different fake letters and fabricated letters under the cover of seizure panchanama in the presence of panchas. The chargesheet from the investigation further shows the A.2 and A.3 surrendered and were released on bail so also A.4-the petitioner released on bail. They collected from the Consulate General D-France A Mumbai, true copy of the recommendation letter as they fail to give recommendation letter for Visa of the complainant D.Srinivas.

5. From this there is only one sentence out of the chargesheet running into 7 pages of A.4-petitioner-Shakeel, from the disclosure made by the A.8 who obtained Visa to go to France 4 years back with help of A.1 to A.5 knowingly and they have submitted false documents and he visited France and those were as per the disclosure statement of A.8 manufactured by the A.1 with the help of other accused. Even taken therefrom it is only disclosure statement of A.8 and nothing made a disclosure showing A.4's involvement but for A.8 went to France on the visa arranged by the A.4 four years back. It does not mean knowingly false Visa obtained by the A.4 from A.8's so called disclosure in the absence of some other material, there is nothing to sustain any accusation even to frame a charge for any offence against the petitioner-A.4 concerned.

Having regard to the above, the Criminal Petition is allowed by quashing the proceedings against the petitioner-A.4 in C.C.No.112 of 2014 on the file of the XII Addl.Chief Metropolitan Magistrate, at Hyderabad and the petitioner is acquitted. His bail bonds shall stand cancelled. Pending miscellaneous petitions, if any, shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

Date:31.01.2019
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