

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.40203 of 2018

ORDER:

The petitioner Sriramoju Radha Krishna Murthy, a judicial officer under suspension, filed this writ petition against the 3 respondents viz., State of Telangana represented by Home Secretary, Inspector of Police, ACB and Sri T. Sriranga Rao all at Hyderabad, with a prayer to declare the FIR No.8/ACB-RCO-CR-2/2018 registered by the 2nd respondent as illegal, arbitrary, against law and principles of natural justice and consequently to quash the same so far against the petitioner arrayed as A.1 in said crime concerned and to pass such other just orders.

2. The supporting affidavit in nutshell though running in about 32 Paras is that he put up 20 years of service since 1998 as Judicial Officer and never been given adverse entry of his Annual Confidential Reports and nor any strictures passed in any of his judgments or orders and not even received charge memo and his quantitatively and qualitatively work performance is satisfactory and above if not even very good that shows his unblemished service record all through. On 22.03.2018, he was asked to submit his explanation by the High Court through Registrar General (FAC Registrar (Vigilance)) enclosing copy of the complaint with affidavit of the 3rd respondent-Sri T.Sriranga Rao without furnishing sworn statements of T.Sriranga Rao and K.Chandra Sekhar recorded by the learned Metropolitan Sessions Judge and he submitted his explanation with no lapse of time on same day through special messenger as per the directions of the High Court. Said Sriranga Rao stated in his complaint of one Dattu (A1 in

crime No.81/2017 registered by Prohibition and Excise Police Station, Ameerpet under Sections 8(C) and 22(C) of NDPS Act) along with his parents and other relatives met him on 04.11.2017 and revealed that they paid Rs.7,50,000/- in 2 installments i.e., Rs.5,00,000/- and Rs.2,50,000/- respectively with a day gap either on 30/31.10.2017 or on next day as the case may be through mediators to the learned I Additional Metropolitan Sessions Judge, Hyderabad for grant of bail on 01.11.2017 in the crime supra and named the so called mediators who collected the amounts. He submitted his explanation stating no such mediators approached him and no such amount paid to him for grant of bail and the bail order was granted on merits as accused was by then in jail for 48 days since 13.09.2017 by date of hearing on 31.10.2017 in granting the bail on next day i.e., 01.11.2017 therefrom in the bail application filed by the accused supra through his advocate Sri T.Sriranga Rao supra, no doubt in the 4th bail application for earlier three applications for bail ended in dismissal. It is stated that said T.Sriranga Rao is in the bad habit of filing false complaints and he is one such against him to take revenge against him as went unsuccessful earlier in Crl.A.No.644 of 2015 by judgment dated 06.01.2017 passed by him as learned II Additional Metropolitan Sessions Judge, Hyderabad and also in DV Appeal No.173 of 2016 on the file of learned I Additional Metropolitan Sessions Judge, Hyderabad passed by him and his bail application dismissed for 3 times earlier in the above crime even and it is only to harass him said T.Sriranga Rao filed the false and frivolous complaint against him and except the one there are no complaints against him all through in his service. It is further averred that the

alleged bribe amount paid on 31.10.2017, whereas the crime registered was on 12.04.2018 about 6 months thereafter. It was nearly at midnight the ACB officials conducted house search without following due procedure to his surprise and could trace nothing incriminating him and still he was arrested on next day without even following Section 41-A Cr.P.C. in the crime registered for the alleged offences punishable under Sections 7, 12 & 13(1)(d) r/w 13(2) of Prevention of Corruption Act and Sections 109, 120-B r/w 34 IPC and produced before the learned Special Judge, ACB Cases for judicial remand and he was sent to judicial custody and not even followed the procedure contemplated by Section 100 Cr.P.C. and the so called extra judicial confession of A2 and A3 are also introduced, leave about their inadmissibility for no any fact discovered pursuant to the so called disclosure which are hit by Section 25 of the Evidence Act for not within realm of Section 27 of the Act. He was made to suffer by keeping in Central Jail without even need of arrest and judicial custody but for to follow Section 41-A Cr.P.C. as held in **Arnesh Kumar Vs. State of Bihar**¹, from which he was in jail from 13.04.2018 to 17.05.2018 and after 35 days only he was granted bail with conditions which he is complying. Even there is no material to implicate him as accused in the crime and by referring to several expressions of the Constitutional Courts in this regard by also saying there are no any ingredients to attract Sections 7 & 13 of the PC Act to sustain any of the penal provisions against him as per the settled expressions of the Apex Court of no any demand or acceptance much less in possession of any amount, leave about even mere

¹ (2014) 8 SCC 273

possession or acceptance no way constitutes any offence to attract and he is a victim for his honesty by this false implication and thereby the proceedings are liable to be quashed as neither it is a trap case nor disproportionate assets case and nor there is any demand or acceptance of bribe to attract any of the penal provisions to sustain the crime registered and pending against him with others.

3. Same is opposed by the counters filed by respondent Nos.3 & 2 respectively and additional counter also filed by respondent No.2 and rejoinder affidavit for it filed by the petitioner, not of much to refer for purpose of disposal of present petition.

4. No doubt a perusal of the so called statement before the learned Metropolitan Sessions Judge of T.Sriranga Rao and K.Chandra Sekhar respectively referring to their affidavits separately enclosed no way shows involvement of the petitioner directly to array as A1 in the crime from what the complaint given by T.Sriranga Rao to the High Court, it appears Registry of the High Court asked the discrete inquiry in the form of preliminary inquiry and the ACB Officials had conducted inquiry and submitted report in seeking to register a crime, permission is accorded. However in registration of the crime that discrete inquiry report if at all a basis making out any offence against him was not appended to the FIR as part of the material, leave about without disclosing the names of the persons who gave statements and what type of discrete or preliminary inquiry conducted; which may be suffice to quash the FIR but for to consider any other material. So far as the other basis in registration and investigation of the crime concerned are the affidavits of T.Sriranga Rao and

K.Chandra Sekhar or the mother of the accused-Dattu as the case may be in showing the involvement of the petitioner either in cause demanding or any acceptance. The earlier 3 bail applications ended in dismissal and the 4th one allowed mainly in considering he is in judicial custody for 48 days itself cannot be said he is a corrupt Judicial Officer therefrom alone.

5. However the fact remains from the additional material that shows from additional counter of the 2nd respondent that there is some telephonic conversation and the service providers given the information. It is the say of the learned Special Public Prosecutor that said material discloses the circumstances to link the petitioner with other accused and besides the material so far collected, further is still to be collected to file final report. Once such is the case, it is not just to quash the FIR against the petitioner but for remedies left open to invoke after final report if at all any cognizance taken for any offence against him.

6. With the above observations and in the result and without further pre-judging the matter, this Criminal Petition is disposed of by directing the ACB Officials to complete the investigation within six (6) months from today and file final report at any cost within the stipulated time and after filing of final report and if at all any cognizance taken for any offence against the petitioner, the petitioner is given liberty to file fresh petition with relevant and necessary material to decide on own merits.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.03.2019

Note: Issue C.C. by 14.03.2019

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