HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No. 12347 of 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings in C.C.No.11 of 2013 on the file of the Principal Special Judge for SPE and ACB Cases, Hyderabad.

A charge sheet came to be filed against the petitioner/accused officer for the offences punishable under Sections 7 and 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988 (Central Act, 1949).

The case of the prosecution is that on 08.03.2010, the 3rd respondent/*de facto* complainant, who is the Managing Director of Sri Lakshmi Sai and Apollo Multi Speciality Dental Hospitals, Guntur, Vijayawada and Ibrahim Patnam of Krishna District, lodged a complaint before the Deputy Superintendent of Police, Anti Corruption Bureau, City Range-1, Hyderabad, stating that on 19.01.2005, he purchased apartments at Door No.13-6-437/A/49, Ground Floor, First and Second Floors, situated at Indira Nagar, Mehidipatnam, Hyderabad, for Rs.64,53,976/- from one Faheem Sultana W/o. Mohammed Ahmed Mohiuddin Siddique and her son Yethessham Mohiuddin. Though the building construction was completed by 2006, the said apartments were not registered in his name. As the said persons giving evasive answers, he approached the former Chief Minister of Andhra Pradesh Dr.Y.S.Raja Sekhar Reddy and gave complaint against them. The said complaint was endorsed to the Commissioner of Police, Hyderabad, and basing on the same, a case in Crime No.250 of 2008 of Central Crime Station, Hyderabad, came to be registered on 07.11.2008 for the offences punishable under Sections 406 and 420 of I.P.C. Later, the 3rd respondent/ *de facto* complainant approached the D.C.P., D.D., Central Crime Station, Hyderabad and also the concerned Inspector of West Zone Team by name Ranjan Ratan Kumar, several times for arrest of the accused in the above crime. Though the accused were called to the police station, twice, they were left free without arrest, since they promised that they would pay back the said investment. As nothing is being done, in the month of September, 2009, the 3rd respondent/ *de facto* complainant approached the petitioner/ accused officer and requested him to effect arrest of the accused at an early date, but the petitioner/accused officer has procrastinate the matter. On 05.03.2010, when the 3rd respondent/ *de facto* complainant approached the petitioner/accused officer, he demanded the bribe amount of Rs.10,000/- for taking action against the accused. On 06.03.2010, the petitioner/accused officer again demanded the bribe amount of Rs.10,000/- for arresting the accused. As the 3rd respondent/ *de facto* complainant was not willing to pay the said bribe amount, he lodged the above complaint. On receipt of the above complaint, the D.S.P., A.C.B, City Range-1, Hyderabad, made an endorsement on 08.03.2010 and instructed the 3rd respondent/*de facto* complainant to come to A.C.B. Office on 09.03.2010 morning along with the proposed bribe amount of Rs.10,000/-, which he intended to pay as bribe amount to the petitioner/accused officer. After completion of all formalities, and after obtaining prior permission from the competent authority, the Deputy Superintendent of Police, A.C.B., City Range-1, Hyderabad, registered a case in Crime No.5/ACB-CR1/2010 against the petitioner/accused officer for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988, on 09.03.2010. During the course of trap on 09.03.2010, when the 3rd respondent/ *de facto* complainant met the petitioner/accused officer, he demanded and accepted the bribe amount of Rs.10,000/- from him with his right hand and kept the same in the left side pant with his left hand. Both hand fingers as well as the inner flap of left side wearing pant pocket and kerchief yielded positive results when subjected to Phenolphthalein test. The tainted bribe amount of Rs.10,000/- along with relevant documents were seized under cover of Mediators Report-II. The Deputy Superintendent of Police, Anti Corruption Bureau, City Range-1, Hyderabad, arrested the petitioner/accused officer on 10.03.2010 at 2.00 A.M. and produced them before the Principal Special Judge for SPE and ACB cases at Hyderabad on 10.03.2010 for remand and accordingly he was remanded to judicial custody. Later, he was enlarged on bail. On 12.04.2010, the 1st Metropolitan Magistrate, recorded the statement of LW.1 under Section 164 of Cr.P.C. During the course of further investigation, statements of the witnesses were recorded under Section 161 Cr.P.C. The Government of Andhra Pradesh, being the competent authority to remove the petitioner/accused officer from his service, accorded sanction for prosecution of the petitioner/accused officer; vide G.O.Ms.No.105, dated 29.04.2013 of Home (SC.A) Department. The investigation revealed that the petitioner/accused officer, while working as Inspector of Police, West Zone Team, CCS, DD, Hyderabad, on 09.03.2010, demanded and accepted the tainted amount of Rs.10,000/- as bribe from the 3rd respondent/*de facto* complainant for showing official favour for arresting accused in Crime No.250 of 2008 of CCS, DD, Hyderabad, registered for the offences punishable under Sections 406 and 420 I.P.C. Basing on the above allegations, a charge sheet came to be filed and the learned Principal Special Judge for SPE and ACB Cases, Hyderabad, has taken cognizance of the same as C.C.No.11 of 2013. The present Criminal Petition is filed to quash the proceedings in the above C.C.

The Special Public Prosecutor for A.C.B. Cases, who is appearing for respondent Nos.1 and 2, filed counter stating that 161 Cr.P.C. statements of the 3rd respondent/*de facto* complainant and other witnesses and documentary evidence clearly reveal that when the 3rd respondent/*de facto* complainant visited the office of the petitioner/accused officer, he demanded and accepted bribe of Rs.10,000/-. Both the hand fingers proved positive in chemical test, recovery of tainted amount from the left side pant pocket of the petitioner/accused officer, inner linings of left side pant pocket and hand kerchief available in the pocket, also yielding positive result. 161 Cr.P.C. statements of all the witnesses are corroborated with the facts of complaint and happenings drafted in Mediators report-I and II. The evidence on record is good enough to prove the demand and acceptance of bribe of Rs.10,000/- from the 3rd respondent/ *de facto* complainant by the petitioner/accused officer for doing official favour i.e., arresting of accused in Crime No.250 of 2008. Thus, the petitioner/accused officer obtained pecuniary advantage of Rs.10,000/- from the 3rd respondent/*de facto* complainant by illegal and corrupt means or otherwise abusing his official position and thereby committed the offences punishable under Sections 7 and 13 (1) (d) read with 13 (2) of the Prevention of Corruption Act, 1988. It is also stated that in the Mediators Report-II, it was clearly mentioned the sequence of happenings took place during the post trap proceedings etc. Further, the petitioner/accused officer's both hand fingers yielded positive result to chemical test and recovered the tainted amount from the possession of the petitioner/accused officer. On comparison of the currency numbers with the currency numbers noted in the Mediators Report-I was found tallied. The acts of the petitioner/accused officer recorded in Mediators Report-II, which clearly constitutes an offence. Hence, the proceedings shall be continued.

Additional Counter-affidavit was also filed on behalf of respondent Nos.1 and 2, stating that the 3rd respondent/*de facto* complainant is involved in criminal cases of Guntur District and Hyderabad city. A rowdy sheet was also opened against him by the Pattabhipuram Police Station, Guntur Urban. But, his criminal background is no way relevant to this case. After receipt of the complaint, Bureau conducted confidential enquiries with regard to the genuineness of the complaint and reputation of the accused and found that the content of the complaint was genuine. The documentary and oral evidence collected during the course of investigation was substantiated that the petitioner/accused officer had committed the offence by demanding and accepting the bribe of Rs.10,000/-.

Heard learned Counsel for the petitioner/accused officer and learned Standing Counsel-cum-Special Public Prosecutor for A.C.B. cases.

Learned Counsel for the petitioner/accused officer submits that the allegations in the charge sheet, along with 161 Cr.P.C. Statements of the witnesses and the confessional statement recorded by the 2nd respondent herein during the course of investigation do not constitute any offence against the petitioner/accused. It is also submitted that as per the mediator report, no offence was took place as alleged by the 2nd respondent on 10.03.2010 and no amount was given to the petitioner/accused. It is also submitted that the story of the 2nd respondent in fixing the petitioner/accused officer in the case is utterly failed as per the reports of the Sodium Carbonate Solution. It is further submitted that the story of the 2nd respondent in its 2nd Mediator Report does not constitute an offence against the petitioner/accused officer and no law is permitted to give a suicidal statement on its own. In those circumstances, continuation of proceedings against the petitioner/accused officer is liable to be quashed.

Reiterating the contentions made in the counter, learned Special Public Prosecutor for A.C.B. Cases, would submit that the material on record clearly proved the demand and acceptance of bribe of Rs.10,000/- by the petitioner/accused officer for doing official favour. As the petitioner/accused officer had committed the offences punishable under Sections 7 and 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988, there is nothing wrong in proceeding against the petitioner/accused officer in the above C.C.

All the contentions raised by the learned Counsel for the petitioner/Accused Officer relate to disputed questions of fact. The Court has also been called upon to adjudge the testimonial worth of the prosecution evidence and evaluate the same on the basis of various intricacies of factual details which have been touched upon by the learned Counsel for the petitioner/Accused Officer. The veracity and credibility of material furnished on behalf of the prosecution has been questioned and false implication has been pleaded.

The law regarding sufficiency of material which may justify the summoning of the accused and also the Court's decisions to proceed against him in a given case is well settled. The Court has to eschew itself from embarking upon a roving enquiry into the last details of the case. It is also not advisable to adjudge whether the case shall ultimately end in conviction or not. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required.

A perusal of the F.I.R. and the material collected by the investigating officer, on the basis of which the charge sheet has been submitted makes out a *prima facie* case against the petitioner/Accused Officer and that there appears to be sufficient ground to proceed against the petitioner/Accused Officer. Thus, the prayer for quashing the proceedings in C.C.No.11 of 2013 on the file of the Principal Special Judge for SPE and ACB Cases, Hyderabad, is refused, as I do not find any valid ground to quash the proceedings against the petitioner/accused officer.

Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

JUSTICE G. SRI DEVI

26.11.2019
Gkv/Gsn.