HONOURABLE JUSTICE G.SRI DEVI

CRL.R.C.No.410 of 2021

O R D E R:

This Criminal Revision Case is directed against the order of the Principal Special Judge for the Trial of SPE and ACB Cases, Hyderabad, passed in C.C.SR.No.326 of 2005, dated 03.05.2021, whereby the learned Special Judge dismissed the private complaint filed by the petitioner, under Section 190 (1)(a) read with Section 200 of Cr.P.C., against the 2nd respondent/proposed accused, seeking to refer the complaint under Section 156 (3) Cr.P.C. to the Director General, Anti Corruption Bureau, Hyderabad, for investigation and report, was dismissed.

Brief facts of the private complaint filed by the petitioner/complainant against the 2nd respondent/accused are that the petitioner is the widow of late N.T.Rama Rao, founder of Telugu Desam Party and former Chief Minister of Andhra Pradesh. The 2nd respondent was born in an agricultural family, his father possessed only a few acres of land and could not afford to send him to a convent school. The 2nd respondent studied in an Elementary School at Seshapuram and subsequently in Municipal High School, Tirupathi. The 2nd respondent completed his graduation from S.V. Arts College, Tirupathi in 1972 and M.A. from S.V.University, Tirupathi in 1974. He dabbled in local politics and was ultimately elected as an M.L.A. for the first time in 1978 from Chandragiri

Constituency. As an M.L.A., the 2nd respondent used to earn a salary of Rs.350/- per month, subsequently on 02.12.1980 he became a Minister and held different portfolios from 02.12.1980 to 09.01.1983. As a Minister, his salary was Rs.2,500/- per month, therefore, according to the petitioner, the total income of the 2nd respondent was Rs.11,550/- from March, 1978 to December, 1980 i.e., Rs.350/- per month for 33 months and Rs.62,500/- from 02.12.1980 to 09.01.1983 i.e., @ Rs.2,500/- per month for 25 months, thus, his total income was Rs.74,050/-.

It is also stated in the complaint that the 2nd respondent joined the Telugu Desam Party in 1983, he was the General Secretary of Telugu Desam Party. The 2nd respondent has filed Additional Counter Affidavit in W.P.No.7606 of 1988 and informed the High Court that his annual income on agriculture was Rs.36,000/- per annum. Therefore, according to the petitioner, the total income of the 2nd respondent from known sources during 1983 to 1989 was Rs.2,16,000/- i.e., Rs.36,000/- for six years. The 2nd respondent established a Public Limited Company in 1992 as Heritage Foods Limited and as per the prospects of the said company, it was stated that the 2nd respondent was not associated with any industry or business activity. As a Director of Heritage Foods for a period of five months, the 2nd respondent has drawn a salary of Rs.20,000/- per month i.e., from 01.07.1994 to 12.12.1994, thus his income during the said period was Rs.1,00,000/-. The 2nd respondent was elected as

M.L.A. in 1989 and he drawn salary of Rs.650/- per month from 1989 to 1994, thereby he earned Rs.39,000/- for 60 months. The 2nd respondent was again elected as M.L.A. in the year 1995 and became Revenue Minister, that he has drawn salary of Rs.2,500/- per month as Revenue Minister and became Chief Minister from 01.09.1995.

It is further stated that the 2nd respondent gave a declaration before the Speaker of Andhra Pradesh Assembly and shown his investment in Heritage Foods as Rs.76,15,000/- and other investments as Rs.3.07 lakhs and cash of Rs.1.28 lakhs and utilized shares of Rs.41.55 lakhs in his own name, apart from advances of Rs.22.45 lakhs making his total assets as Rs.144.50 lakhs in his name. The 2nd respondent also declared that his agricultural lands admeasuring Ac.26.43 cents in Nindali Village, Balaiah Palli Mandal, Nellore district, and a house in plot No.1310, Road No.65, Jubilee Hills, admeasuring 1225 square yards and one more site/building situated at Sri Venkateswara Cooperative Housing Society situated at Road No.12, Banjara Hills, Hyderabad, admeasuring 600 square yards. In addition, the 2nd respondent also shown one Ambassador car worth Rs.1,00,000/-, thus the total assets declared by the 2nd respondent were to the tune of Rs.5,36,89,707/-. The petitioner further alleged that the 2nd respondent has shown assets in the name of his son Master Lokesh at Rs.2,45,16,956/-, thus combined assets of the 2nd respondent and his minor son shown in the year 1999 were at Rs.7,82,06,663/-.

It is also mentioned in the complaint that the 2nd respondent was once again elected as M.L.A. in the year 1999 and continued as Chief Minister from 1999 to May, 2004, thus the known source of income of the 2nd respondent during 1978 to March, 2003 was Rs.7,38,400/-. The petitioner has furnished the details in a tabular form and alleged that the 2nd respondent as per his own statement and as per the statement of his father-in-law did not receive any dowry from his father-in-law. Therefore, as per his own declaration before the Election Returning Officer, the 2nd respondent got assets worth Rs.1,50,85,066/- and the assets in the name of his minor son were Rs.2,45,16,956/-, but he could not have built a house in Plot No.1310 with his modest salary as an M.L.A. and as a Minister or with his paltry agricultural income. The 2nd respondent could not have invested Rs.76,15,000/- in Heritage Foods, therefore these assets have been obviously acquired by the 2nd respondent with his ill-gotten income during his tenure as a public servant from 1978 to 1983. The petitioner further claimed that during the tenure of the 2nd respondent as Revenue Minister and as the then Chief Minister, the assets of his wife and assets of Heritage Foods shown an exponential increase. The 2nd respondent purchased Ac.5.00 of land in Sy.No.51 of Madinaguda Village, Sherilingampally Mandal in the name of his mother Smt. N.Ammanamma for Rs.35.00 lakhs, thereafter got the property transferred in the name of his son by way of gift. Therefore, it is clear the 2nd respondent got the property with his own funds. The petitioner having furnished the details of assets as declared by the 2nd respondent in separate tabular form, submitted that the 2nd respondent acquired assets worth Rs.20,99,01,725/- in his name, in the name of his wife and son against his known sources of income. Therefore, he is liable for prosecution under the provisions of Section 13 (1) (e) read with Section 13 (2) of the Prevention of Corruption Act. The petitioner lodged a written complaint, dated 18.11.2004 to the Director General, Anti Corruption Bureau, Hyderabad and in spite of lapse of three months, there was no response from the Director General. The petitioner has claimed that the 2nd respondent was public servant within the meaning of Section 2 (c) of the Prevention of Corruption Act and the case involves collection of many documents from various Government Agencies, examination of many high ranking public servants and public officials and as such, the investigation can only be done by a Team of Police officials specially constituted for this purpose. Therefore, the petitioner filed the private complaint to refer the complaint to the Director General, Anti Corruption Bureau, Hyderabad, under Section 156 (3) of Cr.P.C. for investigation and report. However, the Court below having considered the entire material available on record dismissed the said private complaint by its order, dated 03.05.2021. Aggrieved by the said order, the petitioner/complainant filed the present Criminal Revision Case.

I have heard learned Counsel for the petitioner/complainant and learned Special Public Prosecutor appearing for the 1st respondent/State and perused the record.

Reiterating the contents of the complaint, learned Counsel for the petitioner would submit that the order under revision is contrary to law, erroneous and incorrect and that the Court below passed the order without application of mind and non-consideration of relevant facts and hence the impugned order is illegal and contrary to the process and procedure contemplated under Section 156 (3) of Cr.P.C. He further submits that the Court below ought to have considered that under Section 156 (3) of Cr.P.C. a Magistrate may direct the police to register and investigate a case if a cognizable offence is disclosed from the averments made in the complaint; that the allegations made in the complaint would *prima facie* disclose the cognizable offence and the Court below conducting the proceedings before it in proper perspective ought to have directed for the registration of crime. In support of his contentions, he relied upon the judgment of the Apex Court in ***Srinivas Gundluri and others v. Sepco Electric Power Construction Corporation and others***[1] and the judgment of the Karnataka High Court in ***C.T.Ravi v. State of Karnataka***[2]**.**

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[1] (2010) 8 SCC 206
[2] (2020) SCC Online Kar. 1746

As seen from the record, the petitioner herein filed a private complaint under Section 190 (1) (a) of Cr.P.C. read with Section 200 of Cr.P.C. against the 2nd respondent seeking to refer the same to the Director General, Anti Corruption Bureau, Hyderabad. During the pendency of the private complaint, the 2nd respondent filed Crl.M.P.No.236 of 2005 in C.C.SR.No.326 of 2005 before the Court below, seeking permission to place certain judgments of the Andhra Pradesh High Court, Delhi High Court and Apex Court, relating to the same allegations made in the complaint and to point out the alleged discrepancies and inconsistencies in the complaint and documents annexed thereto to establish that the complaint is bereft of *prima facie* material and the petitioner has not made out any *prima facie* case for seeking a direction to refer the matter under Section 156 (3) of Cr.P.C., and the same was dismissed by the Court below on 14.03.2005. Aggrieved by the said dismissal, the 2nd respondent herein filed W.P.No.5570 of 2005 before this Court and by an order dated 17.03.2005, this Court granted interim stay of all further proceedings in CC.SR.No.326 of 2005. The petitioner herein filed W.V.M.P.No. 934 of 2005, to vacate the said interim stay, which was dismissed and the interim stay granted was made absolute ***vide*** order dated 06.06.2005. Aggrieved by the dismissal of the vacate stay petition, the petitioner herein preferred W.A.No.1650 of 2005, which was disposed of on 19.09.2005. While things stood thus, in view of the judgment of the Apex Court in ***Asian Resurfacing of***

Road Agency Private Limited and another v. C.B.I.[3]**,** the Court below, though the stay order was made absolute in W.P.No.5570 of 2005, on 06.06.2005, observed that the stay was not extended *vide* separate speaking order, hence, the same was deemed to have been vacated and accordingly, had issued notices to the petitioner *vide* docket order, dated 26.04.2019. The petitioner herein appeared before the Court below and pursued the proceedings through her Counsel. However, it is contended that the Court below without considering the allegations made in the complaint, erroneously dismissed the same *vide* order dated 03.05.2021.

In the instant case, as it transpires from the record that the main allegation in the complaint against the 2nd respondent is that he has acquired assets disproportionate to the known sources of income derived by him as M.L.A., Minister, Chief Minister, Director of Heritage Foods India Limited apart from agricultural income and shares in Banks and other companies and financial institutions. The Court below gave a finding that there was a rivalry between the petitioner and the 2nd respondent herein. In paragraph No.27 of the impugned order, the Court below observed as under:-

> "While keeping the above observations in my mind, I am of the sincere opinion that in view of the rivalry between the complainant and proposed accused, the possibility of complainant filing a complaint only for the political reasons also cannot be ruled out. Therefore, in the light of my above observations, it shows that the complainant, who lodged the complaint is not able to produce any

[3] (2018) 16 SCC 299

> proof about the actual prices paid by accused and his family members for acquiring the assets referred by the complainant in the present complaint. She has mentioned the values of the properties as mentioned by the accused in various proceedings, but they are not reflecting the actual prices. To constitute, an offence under Section 13 (1) (e) of P.C. Act, there must be a *prima facie* material to believe that the accused possessed the disproportionate assets to the known sources of his income, but the said information is not available in the present complaint. The complainant did not comply with the mandatory requirement of filing affidavit along with the complaint. Therefore, I see no grounds to forward the complaint to DG, ACB under Section 156 (3) Cr.P.C., as such the complaint is liable to be dismissed."

After considering the material placed before it and also having regard to the judgments of the Apex Court with regard to the forwarding of the complaint filed under Section 200 Cr.P.C., the Court below found that there was no information with regard to the possession of the disproportionate assets to the known sources of income by the 2nd respondent and that there was no sufficient material to proceed against the 2nd respondent.

Further, while dismissing the complaint, the Court below has considered all the grounds raised before it and also recorded cogent and convincing reasons. Therefore, it cannot be said that challenge is on new or fresh grounds. In the absence of any fresh or new grounds and having considered the facts and circumstances of the case, this Court is of the view that the impugned order, dated 03.05.2021 passed in C.C.SR.No.326 of 2005 on the file of the Principal Special Judge for the Trial of SPE and ACB Cases, Hyderabad, does not suffer from any infirmity or illegality requiring interference by this Court and that the citations relied upon by the learned Counsel for the petitioner are not applicable to the facts of the present case.

Accordingly, this Criminal Revision Case is dismissed at the admission stage, confirming the order, dated 03.05.2021, passed in C.C.SR.No.326 of 2005 on the file of the Principal Special Judge for the Trial of SPE and ACB Cases, Hyderabad.

JUSTICE G.SRI DEVI

09-09-2021
Gsn/gkv