

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

CRIMINAL PETITION No.13520 OF 2014

ORDER:

Heard Mr. T. Sujan Kumar, learned counsel for the petitioner and Mr. Khaja Vizarath Ali, learned Assistant Public Prosecutor for the 1st respondent/State.

2. This is a petition filed under Section 482 of Code of Criminal Procedure (for short 'the Cr.P.C') filed by the petitioner/accused in Crime No.348 of 2014 on the file of the Police Station Bodhan, Nizamabad District for the offence under section 409 of the Indian Penal Code (for short 'the IPC') with a prayer to quash the First Information Report (FIR) No.348 of 2014 and to set aside all the consequential proceedings thereon.

3. The Prosecution case is that the petitioner/accused worked as Secretary of the Primary Agriculture Cooperative society, Minarpally, Bodhan Mandal (for short, 'the Society') and misappropriated the society funds to the tune of Rs.27,78,677/-under debt waiver and Debts Relief Scheme, during his tenure of 2007-2011.

4. Learned counsel for the petitioner/accused submits that, the petitioner/accused was falsely implicated in the crime to cover the loss of the Society. Even as per the record, the crime took place in the year 2008 and the complaint was launched on 04.02.2014 and this delay itself is explicating that the crime has been registered as an after-thought. That apart, the petitioner/accused is suffering from severe ailments. Thus on account of limitation, delay and laches and as the complaint is fabricated, prayed for quashment of the complaint.

5. Learned Assistant Public Prosecutor pleaded that, the complaint has been filed by the authorities after the internal enquiry and verification, thus there is reasonable delay. However, the petitioner cannot take advantage on this ground. Further, as the sentence for the alleged offence is beyond three (03) years, the point of limitation will not be of any help to the petitioner. Despite that, the complaint is at the initial stage of the investigation and as there is

a prima facie against the petitioner, therefore quashment of the crime proceedings would be unjust.

6. I have carefully considered the pleadings advanced by the learned counsel and the materials on record.

7. Admittedly, the petitioner/accused was the Secretary of the Society at relevant period. Further, the accusation of the case are indicating misappropriation of the society funds, when the petitioner was in the responsible position. In the light of law laid down by the Hon'ble Supreme Court in *catenae* of judgments, only *prima facie* case is to be seen and the submissions relating to the question of fact cannot be adjudicated upon in a petition under Section 482 of the Cr.P.C. Furthermore, neither the defence of the accused nor the aspect of limitation shall not be considered at this stage. Thus, in the considered opinion of this Court the crime proceedings cannot be put down to be flawed as no tenable case is made out for quashment. Resultantly, this Criminal Petition fails and is liable to be dismissed.

8. In the result, this criminal petition is dismissed.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

N. TUKARAMJI, J

Date: 04.11.2022
TU/PSW

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