

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 3328 OF 2022

Between:

Cheeti Jithender Rao, S/o.Gopal Rao, Age 43 years, Occ. Business,
R/o.H.No.1-56/A, Gudur Village, Musthabad Mandal, Rajanna Sircilla District.

...Petitioner/Accused-2

AND

1. The State of Telangana, Represented by its Public Prosecutor High Court of
for the State of Telangana, at Hyderabad.

...1st Respondent/Sate

2. The Tahsildar and Executive Magistrate, Siddipet Urban Mandal, Siddipet
District

...2nd Respondent/Complainant

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to C.C.No.765 of 2022 on the file of Court of Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Siddipet and quash the proceedings in C.C.No.3393 of 2021.

(As per the Court Order dated. 17.03.2023 in I.A.No.1 of 2023, C.C. Number and Court name are amended in CrI.P.No.3328 of 2022)

I.A. NO: 1 OF 2022

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in C.C.No.765 of 2022 on the file of Court of Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Siddipet, pending disposal of the Criminal Petition. (As per the Court Order dated.

17.03.2023 in I.A.No.1 of 2023, C.C. Number and Court name are amended in Crl.P.No.3328 of 2022)

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri A. PRABHAKAR RAO, Advocate for the Petitioner and the Additional Public Prosecutor on behalf of the Respondent No.1 and of the Respondent No.2 not appearing in person or by Advocate.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.3328 OF 2022****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner/Accused No.2 to quash the proceedings against him in C.C.No.765 of 2022 on the file of the Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Siddipet, filed for the offences punishable under Sections 188, 171-B r/w 171-E of IPC of Indian Penal Code (for short "IPC") and Section 123 (1) of Representation of Peoples Act (for short "R.P.Act").

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The case of the prosecution is that A1 was residing in Siddipet Town and he is a relative of Sri M.Raghunandan Rao, who was contesting on behalf of the BJP by-elections in Dubbaka Assembly Constituency. On 26.10.2020, having received credible information, police along with two panch

witnesses went to search the house of A1 and seized an amount of Rs.18,67,000/-. When questioned about the money, A1 stated that Rs.67,000/- belongs to his family and the remaining Rs.18 lakhs was handed over by A2 on behalf of the contesting candidate Sri Raghu Nandan Rao. After seizure of the said amount, the police filed a charge sheet against the petitioner and another.

4. The learned counsel appearing for the petitioner would submit that none of the offences were attracted against this petitioner. Even according to the police, no amount was recovered from the petitioner and only on basis of confession of A1 that the amount was passed by this petitioner, petitioner was arrayed as an accused.

5. The offence under Section 188 of IPC can be investigated but the complaint has to be filed by the concerned public servant. In the present case, since charge sheet is filed, bar under Section 195 (1) (a) of IPC operates and the Court cannot take cognizance for the offence under Section 188 of IPC .

6. To attract an offence under Section 171-E IPC and also 123 (1) (a) of Representation of People's Act, the prosecution is bound to produce evidence that during the course of election the voter was bribed in any manner.

7. The learned Additional Public Prosecutor would submit that the amount was provided by this petitioner for the purpose of inducing voters in the said constituency, according to the confession of A1. For the said reason, the prosecution has to be continued against this petitioner.

8. The only basis for arraying the petitioner is the confession of A1. The confession without any corroborating evidence cannot be made as a basis to frame a charge. In the absence of any other evidence apart from the confession made by A1 on basis of which the petitioner was made as an accused, this Court deems it appropriate to quash the proceedings against the petitioner.

9. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner – accused No.2 in C.C.No.765 of 2022 on the file of the Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Siddipet, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

**SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Siddipet.
 2. The Station House Officer, Siddipet-I Town Police Station, Siddipet District.
 3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
 4. One CC to SRI. A PRABHAKAR RAO, Advocate [OPUC]
 5. Two CD Copies
- MMK



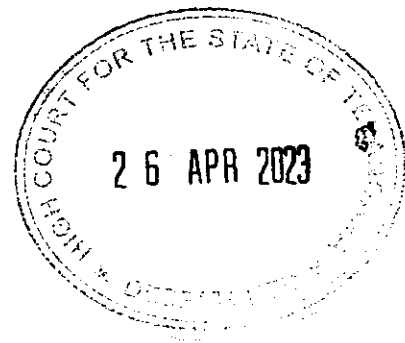
HIGH COURT

KS, J

DATED:17/03/2023

ORDER

CRLP.No.3328 of 2022



ALLOWING THE CRIMINAL PETITION

⑧
MA
26/4/23