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APHC010692782022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

TUESDAY, THE 10th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 10145/2022

Between:

1. A.RAJASEKHAR GOWD, S/O A. VENKATASWAMY, AGED ABOUT 43 YEARS, OCC OFFICE SUPERINTENDENT, 0/O JOINT COMMISSIONER OF INCOME TAX, RANGE-I, TIRUPATI, R/O ANANTAPURAMU, ANDHRA PRADESH

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS SPECIAL PUBLIC PROSECUTOR, ANTI CORRUPTION BUREAU, HIGH COURT FOR THE STATE OF ANDHRA PRADESH, HIGH COURT BUILDING, AMARAVATI, ANDHRA PRADESH.
2. ANTI CORRUPTION BUREAU, REPRESENTED BY ITS DEPUTY SUPERINTENDENT OF POLICE, CIU, VIJAYAWADA, ANDHRA PRADESH.
3. CENTRAL BUREAU OF INVESTIGATION, THROUGH ITS SUPERINTENDENT OF POLICE AND HEAD OF BRANCH, CBI, ACB, VISAKHAPATNAM, REPRESENTED BY ITS SPECIAL PUBLIC PROSECUTOR FOR CENTRAL BUREAU OF INVESTIGATION, HIGH COURT OF ANDHRA PRADESH, AMARAVATI.
4. L NIRANJAN BABU, S/O L. KULLAYAPPA, AGED ABOUT 50 YEARS, R/O 3/748-1-7, 7TH ROAD, KRISHNAPURAM, TADIPATRI TOWN,

ANANTHAPURAMU, ANDHRA PRADESH.

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court be pleased to call for the records relating to and connected with CC.No.24 of 2022 on the file of the Hon'ble Special Judge for CBI Cases, Kurnool and quash the same by allowing this petition and pass

IA NO: 1 OF 2022

Petition under Section 482 of Cr.P.C and 528 of BNSS 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 CC.No.24 of 2022 on the file of the Hon'ble Special Judge for CBI Cases, Kurnool and pass

Counsel for the Petitioner/accused:

1. G V V S VARA PRASAD

Counsel for the Respondent/complainant(S):

1. PUBLIC PROSECUTOR
2.
3. P.S.P.Suresh kumar, Spl.Public Prosecutor For C.B.I.

The Court made the following:

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 10145/2022

ORDER:

This Criminal Petition is filed by the petitioner/accused under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), to quash the proceedings in C.C.No.24 of 2022 on the file of the Special Judge for CBI Cases, Kurnool, for the offence punishable under Section 7(a) of the Prevention of Corruption Act, 1988 (for short, "the P.C. Act").

2. The case of the petitioner is thus:

The petitioner is serving as an Office Superintendent in the office of the Joint Commissioner of Income Tax, Range-I, Tirupati. The Government of Andhra Pradesh withdrew the general consent granted to the members of the Delhi Special Police Establishment (DSPE) under Section 6 of the Delhi Special Police Establishment Act, 1946 (for short, "the DSPE Act"), by G.O.Ms.No.176, Home (SCA) Department, dated 08.11.2018. During the period between 08.11.2018 and 06.06.2019, the CBI had no authority to investigate offences in the State of Andhra Pradesh. The State Anti-Corruption Bureau (ACB) had no jurisdiction to register the crime against a Central Government employee and that the subsequent transfer of the case to the CBI under G.O.Ms.No.154, Home (SC-A) Department, dated 27.11.2019, could not cure the alleged defect.

3. Heard Sri G.V.V.S.Vara Prasad, learned counsel for the petitioner and Sri P.S.P.Suresh Kumar, learned Special Public Prosecutor for the CBI. Perused the material available on record.

4. Learned counsel for the petitioner would argue that respondent No.2 had no authority to register the crime and that the CBI could not investigate the case in the absence of valid consent under Section 6 of the DSPE Act. It is also contended that, after bifurcation of the erstwhile State of Andhra Pradesh, respondent No.2 had no territorial jurisdiction to register the crime and relied

upon the judgments in ***M. Balakrishna Reddy v. Director, CBI, New Delhi***[1]***, Government of NCT of Delhi v. Union of India***[2] and ***Kazi Lhendup Dorji v. Central Bureau of Investigation***[3].

5. On the other hand, the learned Special Public Prosecutor for the CBI submitted that the objection regarding consent under Section 6 of the DSPE Act is misconceived insofar as the initial crime was registered by the State ACB and not by the CBI, the State Government subsequently entrusted the case to the CBI by G.O.Ms.No.154, dated 27.11.2019 and the CBI re-registered the case on 02.06.2020, investigated the allegations and filed the charge sheet. It is also pointed out that the petitioner had raised the same jurisdictional objection before the trial Court and that his discharge petition was dismissed and relied upon the judgment in ***Fertico Marketing and Investment Private Limited v. Central Bureau of Investigation***[4].

6. As seen from the record, initially, basing on the report of respondent No.4, respondent No.2/ ACB registered a case in FIR No.02/RCT-CIU-ACB/2019, dated 14.03.2019 and thereafter, the State Government entrusted the matter to the CBI by G.O.Ms.No.154, dated 27.11.2019, and thereafter on 02.06.2020, respondent No.3/ CBI again registered the same as RC0362020A0007 and after completion of investigation, laid charge sheet and the same is registered as C.C.No.24 of 2022.

7. Section 6 of the DSPE Act provides that a member of the DSPE cannot exercise powers and jurisdiction in a State, other than a Union Territory or railway area, without the consent of the Government of that State. The restriction under this provision applies to the members of the DSPE. It does not, by itself, take away the powers of the State police to register and investigate offences committed within the State in accordance with the law governing the State police.

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[1] (2008) 4 SCC 409
[2] 2019 SCC OnLine SC 193
[3] 1994 Supp (2) SCC 116
[4] (2021) 2 SCC 525

8. In the present case, initially on 14.03.2019, the State ACB registered First Information Report. Therefore, the withdrawal of consent under Section 6 of the DSPE Act, which regulates the exercise of powers by the DSPE, cannot by itself render the registration of the FIR by the State ACB illegal. The petitioner's status as an employee of the Central Government does not, by itself, place him beyond the jurisdiction of the State police in respect of an alleged offence committed within the State. The relevant question is whether the State ACB was authorised under the applicable law to register and investigate the alleged offence. The petitioner has not placed any material before this Court to establish that the State ACB was legally barred from acting in the matter merely because he was a Central Government employee.

9. The objection that respondent No.2 was not a police station notified under Section 2(s) Cr.P.C. is also not supported by any material demonstrating that the officer who registered the crime lacked the authority conferred on the State ACB under the applicable notifications or orders. A mere assertion that the ACB had no jurisdiction is not sufficient to hold that the entire prosecution is without authority. The petitioner has not shown, on the material placed before this Court, that the initial registration of the crime was contrary to any specific statutory prohibition.

10. The subsequent action of the CBI has to be considered separately. The petitioner has not established from the material placed before this Court that the CBI commenced the investigation in the State during the period when the general consent stood withdrawn, or that the Government Order dated 27.11.2019 did not authorise the entrustment of this case to the CBI. The mere fact that the original FIR had been registered by the State ACB during the period of withdrawal of general consent does not make the subsequent investigation by the CBI without jurisdiction.

11. In ***Kazi Lhendup Dorji (supra)***, the Hon'ble Supreme Court held that withdrawal of consent under Section 6 of the DSPE Act operates prospectively and does not affect an investigation already commenced by the CBI on the

basis of consent validly granted earlier. The principle laid down in that case concerns the effect of withdrawal of consent on the powers of the DSPE. It does not support the petitioner's contention that the State police lose their independent authority to investigate an offence merely because the State has withdrawn its consent to the DSPE.

12. In ***M. Balakrishna Reddy (supra),*** the Hon'ble Supreme Court explained that the CBI can exercise powers in a State only upon fulfilment of the requirements under Sections 3, 5 and 6 of the DSPE Act. The said decision does not hold that a State police agency is prohibited from investigating an offence merely because the accused is a Central Government employee. The petitioner has also relied upon the decision in ***Government of NCT of Delhi v. Union of India (supra).*** Facts of this case are entirely different from the facts of the case at hand.

13. In ***Fertico Marketing and Investment Private Limited (supra),*** the Hon'ble Supreme Court considered the effect of an objection relating to consent under Section 6 of the DSPE Act and reiterated that an irregularity in the investigation does not automatically invalidate the proceedings and while referring to the principles in ***H.N. Rishbud v. State of Delhi***[5], observed that an illegality in the investigation does not affect the competence of the Court to take cognizance and that the proceedings cannot be set aside unless the illegality has resulted in a miscarriage of justice. The petitioner has not demonstrated any specific prejudice or failure of justice arising from the alleged defect. In the facts of this case, the said decision does not warrant quashing the proceedings.

14. It is also relevant that the petitioner filed a petition in Crl.M.P.No.10 of 2022 before the trial Court and had raised the same objections as to the jurisdiction and at the culmination of enquiry, the said petition is dismissed vide order dated 09.12.2022. Though the petitioner is entitled to invoke the inherent jurisdiction of this Court in an appropriate case, the same objection

[5] AIR 1955 Supreme Court 196

cannot be accepted merely by repeating the contentions already raised before the trial Court. The petitioner has to demonstrate a clear legal bar or an abuse of the process of Court warranting interference under Section 482 Cr.P.C. No such ground is made out on the material placed before this Court.

15. The inherent jurisdiction under Section 482 Cr.P.C. is to be exercised sparingly and only where the allegations, even if taken at their face value, do not disclose an offence, where the proceedings are barred by law, or where continuation of the proceedings would otherwise amount to an abuse of the process of Court. At this stage, this Court is not required to examine the truth or otherwise of the allegation that the petitioner demanded and accepted a bribe of ₹25,000. That is a matter to be decided by the trial Court on the basis of the evidence adduced by the prosecution and the defence. The petitioner will be at liberty to raise all legally permissible defences during trial.

16. For the foregoing reasons, this Court is not persuaded to hold that the registration of the crime by the State ACB or the subsequent investigation and filing of the charge sheet by the CBI are, on the grounds urged in this petition, without jurisdiction. The petitioner has failed to make out a case for exercising the inherent jurisdiction of this Court to quash the proceedings.

17. **In the result,** this Criminal Petition is dismissed. The trial Court shall proceed with the case in accordance with law and decide the same on the basis of the evidence and without being influenced by any observations made in this order, which are confined to the disposal of the present petition.

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

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SUNITHA GANDHAM,J

Date:10-11-2026
SSA/ knl