APHC010598312022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3521]

WEDNESDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NOs: 1022 and 1042 of 2022

Between:

Moram Srinivasa Rao ...**PETITIONER**

AND

The State of Andhra Pradesh ...**RESPONDENT(S)**

Counsel for the Petitioner:

1. V.Sai Kumar

Counsel for the Respondent(S):

1. S.Syam Sunder Rao SC cum Spl P.P. For ACB
2. Public Prosecutor (AP)

CRIMINAL REVISION CASE NO: 1042/2022

Between:

Sri Vadapalli Adinarayana Murthy ...**PETITIONER**

AND

The State Of Andhra Pradesh and Others ...**RESPONDENT(S)**

Counsel for the Petitioner:

1. K B Ramanna Dora

Counsel for the Respondent(S):

1. S.Syam Sunder Rao SC cum Spl P.P. For ACB

2. Public Prosecutor

The Court made the following:

COMMON ORDER:

These two Criminal Revision Cases are heard and disposed of by this common order, as they arise out of one calendar case, albeit filed by two accused, namely Accused Officer Nos. 6 and 7.

2. Criminal Revision Case No.1022 of 2022 is filed by Accused Officer No.7 and Criminal Revision Case No.1042 of 2022 is filed by Accused Officer No.6, challenging the order passed in Crl.M.P.No.1027 of 2013 (filed by Accused Officer No.7) and Crl.M.P.No.133 of 2014 (filed by Accused Officer No.6) in C.C.No.15 of 2023 by the learned Special Judge for SPE and ACB Cases-cum-III Additional District Judge, Vijayawada (for brevity, "the Trial Court"), whereby petitions filed under Section 239 of the Code of Criminal Procedure, 1973 (for brevity, "the Cr.P.C.") seeking their discharge in Crime No.9A/2001/ACB/VJA/2001 were dismissed. The aforementioned crime was registered for the alleged offences punishable under Sections 13(2) read with 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988 (for brevity, "the PC Act") and Sections 418, 420, and 477A of the Indian Penal Code, 1860 (for brevity, "the IPC").

3. The respondent/complainant laid a charge sheet against the petitioners and other accused alleging that they colluded with Accused Officer No.4, the then MRO, Ponnuru, in issuing land enjoyment certificates certifying that each

beneficiary had Ac.0.75 cents of land under their enjoyment, thereby cheating and causing wrongful loss to the Government exchequer. It is submitted that the petitioner/Accused Officer No.6 was not competent to issue land enjoyment certificates, as only the MRO was empowered to do so. The District Collector, Guntur, appointed the MRO, Ponnuru, as the enquiry officer to conduct an enquiry into the alleged irregularities said to have been committed by the petitioner/AO6 in the year 2000. Pursuant thereto, the MRO, Ponnuru conducted the enquiry and submitted a report recommending action against the petitioner. However, the District Collector removed the Petitioner/Accused Officer No.6 from service, even though he had no role in issuing the enjoyment certificates.

4. Sri V. Sai Kumar, learned counsel for the Petitioner/AO7 submits that the petitioner has been wrongly arrayed as Accused Officer No.7, even though the entire criminal proceedings originated from a vigilance enquiry based on a newspaper report and a subsequent report of the District Collector, in which the petitioner was not even named. It is contended that the FIR registered in Crime No. 9/ACB-VJA/2001 was initially closed in 2005 due to non-filing of charge sheet within time, yet a charge sheet was filed belatedly in 2013, long after the alleged incident, when several accused officers had either retired or passed away.

5. The petitioner, who was working only as a Village Development Officer, had no authority to issue land enjoyment certificates and merely acted in

accordance with the instructions of his superior officers. There is no allegation of receipt of any bribe, pecuniary advantage, or misappropriation of funds by the petitioner, and even the charge sheet attributes no substantive role to him except a vague procedural lapse.

6. It is further submitted that the learned trial court failed to appreciate that the essential ingredients of the offences under 'the PC Act.,' and 'the I.P.C., are not made out against the petitioner. The validity and existence of sanction for prosecution under G.O.Ms. No. 88 dated 29.03.2012 were neither furnished to the petitioner nor examined by the court below while deciding the discharge petition under Section 239 of 'the Cr.P.C'. The impugned order dismissing the discharge petition was passed mechanically, without considering the vigilance report, the absence of specific allegations, or the petitioner's limited role as a subordinate officer. The continuation of criminal proceedings against the petitioner, therefore, amounts to an abuse of process of law and causes grave injustice, warranting interference by this Court in revision.

7. Sri K.B. Ramanna Dora, the learned counsel for the Petitioner/AO6 submits that though nearly thirteen officials were allegedly involved in the matter, the petitioner/AO-6 alone was removed from service, causing grave injustice. The petitioner has already been subjected to departmental punishment for the very same allegations, despite there being no finding of irregularity, misappropriation of Government funds, or disobedience of

superior officers on his part. In the absence of any material to show that the petitioner derived any pecuniary benefit or played any substantive role in the alleged offences, the continuation of criminal proceedings amounts to an abuse of process of law. Accordingly, the petitioner/AO6 prays for his discharge from the case.

8. Sri K.B. Ramanna Dora, learned counsel for the Petitioner/AO6 submits that the petitioner, who was working as a Village Administrative Officer at the relevant point of time, has been unnecessarily implicated as Accused No. 6, despite there being no specific role attributed to him in the alleged offences. It is contended that the only allegation against the petitioner in the charge sheet is that he allegedly colluded with Accused Officer No. 4 in issuing land enjoyment certificates. However, the petitioner was not competent to issue such certificates and had no authority except to act as a subordinate. There is no allegation whatsoever that the petitioner received any bribe, pecuniary benefit, or misappropriated any government funds, nor is there any material to establish collusion with the beneficiaries, who themselves have not been arrayed as accused.

9. It is further submitted that even if the entire charge sheet allegations are accepted at face value, no offence under ‘the IPC.,’ or ‘the PC Act.,’ is made out against the petitioner, and continuation of criminal proceedings would amount to abuse of process of law.

10. The learned counsel further submits that the petitioner has already suffered departmental punishment merely for counter-signing certificates and that the criminal prosecution is unsustainable in the absence of any incriminating material. The learned trial court, while dismissing the discharge petition under Section 239 of ‘the Cr.P.C.,’ failed to appreciate the absence of *prima facie* evidence and proceeded on assumptions and presumptions. Therefore, the impugned order is liable to be set aside and the petitioner deserves to be discharged in the interest of justice.

11. *Per contra,* Sri S. Sham Sundar Rao, the learned Special Public Prosecutor for ACB appearing for Respondent No.1 argued that as there was a *prima facie* case made out against the Petitioners, the learned Trial Court did not discharge the Petitioners. There were own admissions of the Petitioners that they issued encroachment certificates though they had no authority which shows that they colluded with other accused in commission of the alleged offences. The learned Special Public Prosecutor further submits that the Petitioners/AO7 and AO3 cannot through the blame on AO4 inasmuch as before completion of documentation the Petitioner/AO7 and AO3 have to satisfy with the contents of the certificates issued by AO4. Therefore, along with AO3 and AO4 the Petitioner/AO7 is responsible for their negligence and discharging their duties, as a result the entire scandal was taken place as their exists a *prima facie* case against the Petitioner/AO7 it is urged to dismiss the petitions.

12. The learned Special Public Prosecutor appearing for ACB before the learned Trial Court filed a counter on behalf of the prosecution contending that, on the basis of the complaint lodged by the District Collector, Guntur dated 23.03.2001, an enquiry was conducted. In the enquiry report, the Enquiry Officer opined that all the accused officers, including the petitioner/Accused Officer No.6, were involved in large-scale irregularities, misuse, and misappropriation of Government funds in the implementation of the Land Development Scheme at Potharlanka Village, resulting in a loss of approximately Rs.34,00,000/- to the Government exchequer.

13. It was further stated that the accused officers were responsible for the loss of Government money and that prosecution under ‘the PC Act.,’ was recommended. It was furthermore contended that, in the said enquiry, the petitioner/AO6 along with other accused were held responsible for the irregularities and misappropriation of funds belonging to the SC Corporation. The prosecution asserted that the removal of the petitioner/AO6 from service was independent of and unconnected with the criminal prosecution. On these grounds, the prosecution prayed for dismissal of the petition.

14. The learned Trial Court, after considering the material on record and conducting an enquiry, declined to discharge the petitioners and dismissed the petitions, holding that a prima facie case was made out against them.

15. Thoughtful consideration is bestowed on the arguments advanced by the learned counsel for the Petitioners and the learned Special Public Prosecutor. I have perused the record.

16. Now the point for consideration is:

> *"Whether the orders in Crl.M.Nos.1027 of 2013 and 133 of 2014 dated 06.10.2022 in C.C.No.15 of 2023 passed by the learned Special Judge for SPE and ACB Cases-cum-III Additional District Judge, Vijayawada, are correct, legal, and proper with respect to its finding, or order, and there are any material irregularities? And to what relief?"*

17. It is alleged that the MRO and MDO, Kollur, issued false certificates in favour of 375 beneficiaries certifying that each beneficiary individually possessed Ac. 0.75 cents of land. It is further alleged that while issuing such certificates, the revenue officials failed to verify the total extent of land held by each beneficiary and whether the same tallied with the existing cultivable land. The officers who conducted subsequent inspections merely relied upon the earlier reports without independent verification. The petitioners, being government servants, had discharged their duties in the larger interest of the State, and mere dereliction or irregularity in discharge of official duties, in the absence of concrete evidence of misappropriation with conspiracy, cannot be fastened criminal liability upon them.

18. The higher and supervising officials had sufficient opportunity and scope to verify, scrutinize, and supervise the work done and the documents

issued by the petitioners. However, it appears that the supervising authorities failed to discharge their duties and instead sought to attribute blame to the petitioners by alleging their involvement in the so-called called scandal. Even assuming that there was dereliction of duty or procedural irregularity, the petitioners cannot be subjected to criminal prosecution in the absence of any material establishing misappropriation of government funds or receipt of pecuniary benefit dishonestly or fraudulently.

19. The Vigilance and Enforcement report dated 01.12.1999 primarily alleges improper verification of land ownership and reliance on certificates issued by the MRO, Kollur, and in fact fixes responsibility mainly on the MRO and MDO. Mere negligence or improper verification, at best, would warrant departmental action and not launching criminal prosecution.

20. It is undisputed, a fortiori, that the beneficiaries were in possession of the land and that three departments, namely the SC Corporation, Panchayat Raj Department, and Revenue Department, were required to act in coordination. The enquiry commenced on 23.11.1998, the FIR was registered on 02.05.2001, sanction was accorded by the Government on 29.03.2012, and the charge sheet was filed in 2013, whereupon the discharge petition was immediately filed and came to be dismissed only on 06.10.2022 after nearly nine years.

21. Though it is alleged that due to improper documentation loans were granted to persons not entitled, it is not in dispute that the land was under cultivation. Even as per the Vigilance and Enforcement report, the land was assigned to the Adi Andhra Cooperative Society for collective cultivation by SC and BC communities, and though individual possession may not strictly arise, 375 beneficiaries were collectively in possession of about 274 acres of land.

22. It is pertinent to note that a learned Single Judge of this Court, in **Komarapuri Gangachalam v. Government of Andhra Pradesh**[1], allowed the revision case filed by Accused Officer No.1 setting aside the order refusing discharge passed in Crl.M.P.No.480 of 2013 in C.C.No.15 of 2013 by the learned Trial Court. Accused Officer No.1 was the Executive Director of the SC Corporation during the relevant period, i.e., from 15.08.1996 to 18.09.1997.

23. In **Komarapuri Gangachalam** *supra* at paragraph No.21, it was observed that the attribution against the revision petitioner/Accused Officer No.1 was confined to his failure to diligently monitor the utilization of funds. Thus, what was alleged against him was essentially an administrative lapse. Mere administrative failure cannot be equated to a criminal offence unless there is material, and allegations based on such material, indicating fraudulent or dishonest intention. In the case on hand, the essential criminal element is

[1] Criminal Revision Case No.983 of 2023 dated 12.12.2024

not made out from the allegations or the material placed before the Court. The other allegation was that he released funds through a lower cadre officer instead of a higher cadre officer. Such a lapse on the administrative side may warrant appropriate departmental or administrative action. However, the allegations do not indicate that this lapse was committed with an intention to misappropriate the funds or to enable other officers to do so.

24. In the instant case also, the allegation against Accused Officer No.6 is that he issued land enjoyment certificates illegally in collusion with Accused Officer No.4. Accused Officer No.6 has admitted about issuance of the enjoyment certificates. However, he contends that the same were issued on the oral instructions of Accused Officer No.4. Even assuming that Accused Officer No.6 issued the enjoyment certificates, the same would, at best, warrant disciplinary action, including setting aside of such certificates. There is no material on record to show that Accused Officer No.6 misappropriated any Government funds, nor is there any evidence indicating the extent of alleged misappropriation attributable to him. Accused Officer No.6 is aged about 70 years and had worked as the Village Administrative Officer of Potharlanka Village, Kollur Mandal, more than one and a half decades ago

25. Similarly, Accused Officer No.7 is aged about 61 years and was working as Village Development Officer/Village Secretary. There is no material on record to show that Accused Officer No.7 indulged in any misappropriation of Government funds in conspiracy with other accused. There are no specific

allegations against him either in the complaint or in the charge sheet to that effect. Therefore, he cannot also be subjected to criminal prosecution. It is undisputed that Accused Officer No.7, along with Accused Officer No.3, was required to satisfy themselves about the contents of the certificates issued by Accused Officer No.4 before completion of the documentation. Such lapse, if any, amounts to administrative dereliction or negligence in the discharge of official duties and cannot be construed as sharing a common intention with the other accused to misappropriate Government funds. Even assuming that Accused Officer No.7 discharged his duties in a derelict manner, the same would warrant only departmental action and not criminal prosecution. Mere improper verification of the documents prepared by Accused Officer No.4 cannot be attributed to Accused Officer No.7 so as to fasten criminal liability for the offences punishable under Sections 13(2) read with 13(1)(c) and 13(1)(d) of 'the PC Act.,' and Sections 418, 420, and 477A of 'the I.P.C'. There is no *prima facie* material available against the petitioners to proceed further by framing charges. The order passed by the learned Trial Court is perverse and unsustainable in law and, therefore, liable to be interfered with and set aside.

26. In the result, the Criminal Revisions Cases are allowed setting aside the orders passed in Crl.M.P.Nos.1027 of 2013 and 133 of 2014 and the Petitioners/AO6 and AO7 are discharged from C.C.15 of 2013 on the file of

the learned Special Judge for SPE and ACB Cases-Cum-III Additional District Judge, Vijayawada. No order as to costs.

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

Dr.Y. LAKSHMANA RAO, J.

Date: 11.02.2026
KMS

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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NOs: 1022 and 1042 of 2022

Date: 11.02.2026

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