Telangana High Court
Mkvn Murthy vs Associated Broadcasting Company ... on 1 June, 2021
Bench: K.Lakshman

THE HONOURABLE SRI JUSTICE K. LAKSHMAN CRIMINAL PETITION

Nos.6450 OF 2019 & 6121 OF 2020 COMMON ORDER:

As both the Criminal Petitions arise out of same crime, they are being heard and disposed of by this common order.

2. Accused Nos.1 and 2 in Crime No.900 of 2019 pending on the file Banjara Hills Police Station, Hyderabad, filed Crl.P.No.6450 of 2019 and 6121 of 2020 respectively under Section 482 of Cr.P.C., to quash the proceedings in the said Crime against them. The offences alleged against them are under Sections 418, 420 and 409 of IPC.

ALLEGATIONS AGAINST THE PETITIONERS/A.1 AND A.2

3. As per the complaint dated 04.10.2019, the allegations against both the petitioners are as follows:

Respondent No.2/de facto complainant is the Whole Time Director of Associated Broadcasting Company Pvt. Limited (ABCPL).

M/s.Alanda Media & Entertainment Pvt. Limited (AMEPL) has acquired majority shareholding (ownership) constituting 90.54% of the total equity share capital of ABCPL as on 27.08.2018 and it became major shareholder of ABCPL.

On verification of records and account statements since June, 2019 by new Board of Directors, it came to their notice that the PETITIONERS/A-1 and A-2 fraudulently drawn huge sums and also paid to Mr.Clifford Pereira by abusing the authority and signing the instruments. The details of the withdrawals of the said payments are 2 KL,J CRL.P.NOS.6450_2019 & 6121_2020 specifically mentioned in the complaint dated 04.10.2019 in the tabular form.

The cheques/instruments for remittance were issued by both the petitioners knowing fully well that they were not entitled to receive such huge amounts and they had no authority to pay for themselves without obtaining approval of the shareholders/Directors. The petitioners were the Directors and Authorized Signatories to the bank accounts as on the date of drawal of the said sums mentioned in the tabular form and by misusing their cheque power, which is to be used for the interest of the company, have drawn the amounts fraudulently and have also issued the amounts to Mr.Clifford Pereira and misappropriated the funds of the company.

The petitioners were Whole Time Directors of ABCPL and were entrusted with domain over the funds of the company and they were also authorized signatories to operate the bank accounts of the company in their capacity as Whole Time Directors. Therefore, they were the agents and Trustees of the said company who are expected to discharge in trust and in the interest of the company, its shareholders and other stakeholders with regard to company's funds.

The petitioners, being the agents of the said company, and in complete disregard of the trust reposed in them by the shareholders, have utilized the said amount to their own use by issuing cheques from the company's account in their favour being the authorized signatories of the said company.

The amounts were transferred with a dishonest and fraudulent intention to cause wrongful loss to the 3 KL,J CRL.P.NOS.6450_2019 & 6121_2020 company and consequent wrongful gain to the petitioners by playing deception on the company. Later on, as an afterthought, coloured it as bonus/ex gratia with antedated documents without passing a proper board resolution to pay such amounts which anyway cannot be passed as all the above being the interested parties to the board resolution.

Thus, the petitioners have cheated the said company and its shareholders. The amount misused by the petitioners is almost equivalent to the profits of two financial years of the company i.e., 2017-18 and 2018-

19. It is nothing but fraudulently drawing the funds abusing their position.

The petitioners, being the Whole Time Directors of the said company are expected to protect the interest of the company and its shareholders. But, instead of doing so, they have abused their position and cheated the company resulting in wrongful loss to the said company and consequential wrongful gain to the petitioners. Respondent NO.2 came to know that the petitioners have advised the accounts team to record the said amounts on account of bonus/ex gratia to them without conducting a proper board meeting or taking the approval in the general meeting of shareholders of the company. Thus, the said amounts are treated as illegal and wrongful withdrawal from the company. In the meeting held on 24.09.2019, the Directors of the company held detailed deliberations about the fraudulent withdrawal of the amounts and decided to file complaints and initiate appropriate legal proceedings against the petitioners to recover the said amount.

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4. With the said allegations, respondent NO.2, a Whole Time Director of ABCPL, lodged the complaint dated 04.10.2019 with Police, Banjara Hills Police Station, Hyderabad, who in turn, registered a case in Crime No.900 of 2019 against the petitioners for the aforesaid offences.

CONTENTIONS OF THE PETITIONERS/A.1 AND A.2:

5. Sri T.Pradyumna Kumar Reddy, learned Senior Counsel representing Sri T.Anirudh Reddy, learned counsel for the petitioners, would submit that ABCPL is a company registered under the Companies Act, 1956 and it is having Memorandum and Articles of Association. As per Clause No.9 of its Articles of Association, the Directors, subject to the provisions of the Companies Act, 1956 may be paid a monthly remuneration and/or a special percentage of the profit/turnover of the company and/or commission as may be determined by the board in addition to benefits and/or amenities applicable to all officers and employees for rendering extra services to the company. In view of the said specific clause, learned Senior Counsel would submit that there is no need for the petitioners to take approval from the Board of Directors of ABCPL for the purpose of making the said payment. The petitioners, being the Whole Time Directors and also the Authorized Signatories of the said company, have drawn the amounts mentioned in the complaint and paid the same to the officers, employees and others towards bonus/ex gratia. Therefore, there is no 5 KL,J CRL.P.NOS.6450_2019 & 6121_2020 cheating or criminal breach of trust committed by the petitioners as alleged in the complaint dated 04.10.2019.

6. Learned Senior Counsel would further submit that ABCPL has been paying bonus/ex gratia to the employees since several years and that practice is being continued by the said company. Therefore, the petitioners, being the Whole Time Directors of the company, withdrew the said amount and paid the same to the employees. He would further submit that respondent NO.2 WAS inducted as Whole Time Director of the company on 01.06.2019 and he has lodged the present complaint on 04.10.2019 with a malafide intention to harass the petitioners by implicating them in the present crime. He would further submit that Chintalapati Holdings Private Limited, iLabs Venture Capital Fund, AMEPL and ABCPL have entered into Share Purchase Agreement dated 24.08.2018 on the specific terms and conditions mentioned therein with regard to share pattern operation of regional television broadcasting few channels viz., TV9, TV9 Kannada, TV9 Gujarat, TV9 Mumbai, TV1 and News9. There were some disputes between the above said companies with regard to share pattern operation of the above said news channels. In view of the said disputes, respondent NO.2, who is having influence both political and financial, implicated the petitioners in the present crime and also other crimes i.e., Crime Nos.84 and 87 of 2019 pending on the file of Cyber Crime Police Station, Cyberabad and Crime Nos.430 and 519 6 KL,J CRL.P.NOS.6450_2019 & 6121_2020 of 2019 pending on the file of Police, Banjara Hills Police Station, Hyderabad.

7. Learned Senior Counsel would further submit that though the issues and allegations in all the above said five crimes are almost one and the same, the Police, Banjara Hills, have registered the present crime during the pendency of aforesaid crimes. Therefore, registration of multiple crimes is not permissible. He has placed reliance on the principle laid down by the Hon'ble Apex Court in T.T.Antony v. State of KERALA1 and a judgment of Andhra Pradesh High Court in Akbaruddin Owaisi v. The Govt. of A.P.2.

8. Learned Senior Counsel would further submit that the petitioners, after withdrawal of the said amount, have paid bonus/ex gratia to the employees of ABCPL for the financial years 2017-18 and 2018-19 and being the Whole Time Directors, they are also entitled for the said benefit as per Clause No.9 of the Memorandum and Articles of Association of the company. In view of the disputes with regard to the said Share Purchase Agreement dated 24.08.2018, respondent NO.2 bore grudge against the petitioners and has implicated them in the present crime. The contents of the complaint lack the ingredients of the offences alleged against the petitioners. Respondent NO.2 is trying to criminalize the civil proceedings to settle the disputes with regard the said (2001) 6 SCC 181 2013 (6) ALT 101 7 KL,J CRL.P.NOS.6450_2019 & 6121_2020 Share Purchase Agreement dated 24.08.2018. With the above said submissions, learned Senior Counsel sought to quash the proceedings in Crime No.900 of 2019 against the petitioners.

CONTENTIONS OF RESPONDENT NO.2:

9. Sri S.Ravi, learned Senior Counsel representing Sri Duvva Pavan Kumar, learned counsel for respondent NO.2, would submit that as per the Memorandum and Articles of Association of ABCPL, the petitioners have to take approval of the board resolution, but without doing so, they withdrew the huge amounts illegally, as such, they have caused wrongful loss to the Directors and shareholders of the company and gained wrongfully. The petitioners withdrew the said amount by taking shelter under payment of bonus/ex gratia to the employees of ABCPL, and in the said course of action, they have created antedated documents without passing a proper board resolution to pay the said amount. The amount misused by the petitioners is almost equivalent to the profits of two financial years. This is nothing but fraudulently drawing the amounts by abusing their power as Whole Time Directors and also taking advantage of their powers to sign the cheques.

10. Learned Senior Counsel would further submit that Mr.Clifford Pereira has submitted a letter dated 24.09.2019 to the Board of Directors of ABCPL stating that he has received an amount net of Tax Deducted at Source to the tune of 8 KL,J CRL.P.NOS.6450_2019 & 6121_2020 Rs.3,83,35,744/- on various dates through RTGS to his bank account. On enquiry, both the petitioners informed him that those payments were remitted towards other benefits for which he is entitled. It is further stated that the matters pertaining to release of amount in the name of bonus or otherwise has not been placed or discussed in the board meetings of ABCPL and he has not attended to the same. He has not received any notice or agenda or bonus calculations, etc., for the above said remittances. The said amounts were paid to them and recorded as bonus in the books of accounts and he presumed that the petitioners have complied with the law and followed the prescribed procedure. But, thereafter he came to know that all the said actions were done by the petitioners without proper approvals. The net payment/drawal after Tax Deducted at Source of RS.11,74,51,808/- was discussed in detail at the board meeting of ABCPL held on 24.09.2019 and the board has decided to initiate legal proceedings against the petitioners to recover the amount including filing of criminal complaints. In the said letter, Mr.Clifford Pereira undertook to return the amount of Rs.3,83,35,744/- to the company in due course and sought few months time and he has requested the company not to initiate any legal proceedings against him. Learned Senior Counsel would further submit that in view of the said assurances and admissions of Mr.Clifford Pereira, complaint was not lodged against him.

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11. Learned Senior Counsel would further submit that a company petition vide C.P.NO.310 of 2019 is pending before the National Company Law Tribunal filed by accused NO.1 and there are no interim orders. There are specific allegations against the petitioners in the complaint dated 14.10.2019 and the crime is at investigation stage. There are several factual aspects to be investigated into by the Investigating Officer and therefore the proceedings in Crime No.900 of 2019 may not be quashed by this Court in exercise of its powers under Section 482 of Cr.P.C. He would further submit that both the petitioners are already on bail and this Court has protected them from arrest. He would further submit that the complaints and allegations in all the said five crimes are different. On perusal of the said complaints would reveal the said fact. Therefore, the contention of the petitioners that registration of multiple crimes with regard to the same issue between the same parties is impermissible, is not sustainable. With the said submissions, he sought to dismiss both the Criminal Petitions.

CONTENTIONS OF LEARNED PUBLIC PROSECUTOR:

12. Learned Public Prosecutor would submit that the proceedings in Crime No.900 of 2019 are at investigation stage. Since the punishment prescribed for the offences alleged against the petitioners is seven years or below seven years, the Investigating Officer has already invoked the procedure laid down under Section 41-A of Cr.P.C. This 10 KL,J CRL.P.NOS.6450_2019 & 6121_2020 Court has already granted anticipatory bail to accused NO.1 and there is some protection to accused NO.2. Therefore, there is no threat of arrest of the petitioners as of now. He would further submit that there are several factual aspects to be investigated into by the Investigating Officer during the course of investigation. There are no allegations, much less specific allegations, against said Mr.Clifford Pereira and it was informed to the Investigating Officer that Mr.Clifford Pereira has already submitted resignation to the Directorship of ABCPL and submitted a letter dated 24.09.2019 stating that he will return the money received. In view of the same, the Police have not included the name of Mr.Clifford Pereira in the crime. He would further submit that the complaints, allegations and issues in all the above said five crimes are altogether different. In each complaint, there are separate and specific allegations against the accused therein. Therefore, the contention of the petitioners that the Police have registered multiple crimes with regard to very same issue and between the very same parties, is not sustainable and the said contention is without any basis and contrary to the record. With the said submissions, learned Public Prosecutor sought to dismiss the present Criminal Petitions.

FINDINGS AND ANALYSIS:

13. The above stated facts would reveal that there is no dispute that the petitioners were the Whole Time Directors of ABCPL. They were also authorized signatories to operate the 11 KL,J CRL.P.NOS.6450_2019 & 6121_2020 bank account of the said company. It is also not in dispute that respondent NO.2 WAS inducted as Whole Time Director in the said company on 01.06.2019. It is also not in dispute that the said company and other companies have entered into Share Purchase Agreement dated 24.08.2018 on the specific terms and conditions with regard to sale of share

pattern and operation of the above said news channels.

14. As per Clause No.9 of Memorandum and Articles of Association of ABCPL, the Directors, subject to the provisions of the Companies Act, 1956 may be paid a monthly remuneration and/or a special percentage of the profit/turnover of the company and/or commission as may be determined by the board in addition to benefits and/or amenities applicable to all officers and employees for rendering extra services to the company.

15. Referring to Section 197 of Companies Act, 2013, Sri S.Ravi, learned Senior Counsel appearing for respondent NO.2, would submit that the total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent of the net profits of that company for that financial year computed in the manner laid down in Section 198 except that the remuneration of the directors shall not be deducted from the gross profits. He would further submit that the petitioners without following the procedure laid down under 12 KL,J CRL.P.NOS.6450_2019 & 6121_2020 the Companies Act and without there being any approval of the board of ABCPL withdrew the huge amounts which are specifically mentioned in the complaint dated 04.10.2019 illegally for their personal use and now they are giving a colour of payment of bonus/ex gratia to the employees of the said company and also to themselves in order to get over their illegal acts of criminal breach of trust and cheating.

16. Thus, there are several factual aspects to be investigated into by the Investigating Officer during the course of investigation which are as follows:

> "(i) whether ABCPL has been paying bonus/ex gratia to its employees, Directors and officers from several years?
>
> (ii) whether the petitioners, after withdrawal of the said amount, paid the bonus/ex gratia to the employees, Directors and officers of the company?
>
> (iii) whether the employees, Directors and officers of the company received the said amount towards bonus/ex gratia for the financial years 2017-18 and 2018-19?
>
> (iv) whether there is any requirement of approval of shareholders and Directors of the company for the purpose of payment of bonus/ex gratia in terms of Memorandum and Articles of Association of the company.?
>
> (v) whether the petitioners have created documents to show that they have withdrawn the said amount and paid bonus/ex gratia to the employees/Directors and officers and whether they have created any antedated documents?
>
> (vi) The Investigating Officer has to record the statements of the employees, officers, Directors etc. of the Company to come to a conclusion with regard to payment of bonus/ex gratia. He has to collect the evidence with regard to said factual aspects.

(vii) The deduction of TDS has to be investigated into."

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17. A perusal of the record would reveal that on 22.05.2018, ABCPL and Media NXT India Private Limited entered into an Agreement of Sale of Trademarks and Word Marks on the terms and conditions mentioned therein. The same was cancelled and a Cancellation of Agreement of Sale was entered between the said companies on 31.12.2018. Thus, there are several factual aspects to be investigated into by the Investigating Officer during the course of investigation.

18. The Apex Court in Kamal Shivaji Pokarnekar Vs. The State of Maharashtra3 held that quashing criminal proceedings was called for only in a case where complaint did not disclose any offence, or was frivolous, vexatious, or oppressive. If allegations set out in complaint did not constitute offence of which cognizance had been taken by Magistrate, it was open to High Court to quash same. It was not necessary that, a meticulous analysis of case should be done before trial to find out whether case would end in conviction or acquittal. If it appeared on a reading of complaint and consideration of allegations therein, in light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for High Court to interfere. The defences that might be available, or facts/aspects which when established during trial, might lead to acquittal, were not grounds for quashing complaint at threshold. At that stage, only question relevant was whether (2019) 14 SCC 350 14 KL,J CRL.P.NOS.6450_2019 & 6121_2020 averments in complaint spell out ingredients of a criminal offence or not. The Court has to consider whether complaint discloses that prima facie, offences that were alleged against Respondents. Correctness or otherwise of said allegations had to be decided only in trial. At initial stage of issuance of process, it was not open to Courts to stifle proceedings by entering into merits of the contentions made on behalf of Accused. Criminal complaints could not be quashed only on ground that, allegations made therein appear to be of a civil nature. If ingredients of offence alleged against Accused were prima facie made out in complaint, criminal proceeding shall not be interdicted.

19. The Hon'ble Apex Court way back in the year 1992 itself in State of Haryana v. Ch.Bhajan Lal4 laid down certain parameters for the purpose of quashing of criminal proceedings by High Courts in exercise of their powers under Section 482 of Cr.P.C., which are as follows:

(1) "Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the F.I.R. and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the F.I.R. or complaint and

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the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceeding and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due private and personal grudge."

20. In Skoda Auto Volkswagen India Private Limited v. The State of Uttar Pradesh and Ors5, the Hon'ble Apex Court referring to the various judgments rendered by it categorically held that the High Courts in exercise of its inherent powers under Section 482 of Cr.P.C has to quash the proceedings in criminal cases in rarest of rare cases with extreme caution. In recent judgment in M/s. Neeharika Infrastructure Private Limited v. State of Maharashtra6, the three judges Bench of Hon'ble Apex Court laid certain AIR 2021 SC 931 2021 LawSuit (SC) 272 16 KL,J CRL.P.NOS.6450_2019 & 6121_2020 guidelines/parameters for the purpose of exercising powers by High Courts under Section 482 of Cr.P.C and also Article 226 of Constitution of India which are as under:

"(i) to (iii) ...

iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities.

The inherent power of the court is, however, recognised to secure the ends of justice or prevent the above of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of 17 KL,J CRL.P.NOS.6450_2019 & 6121_2020 law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

21. The Hon'ble Apex Court in Priti Saraf v. State of NCT of Delhi7, after referring to the principle laid down by it in earlier judgments, held that if the contents of the complaint constitute cognizable offences, the proceedings in crime cannot be quashed by the High Court by invoking its powers under Section 482 of Cr.P.C. The Criminal Procedure Code contains a detailed procedure for investigation, framing of charge and trial, and in the event when the High Court is desirous of putting a halt to the known procedure of law, it must use proper circumspection with great care and caution CRL.A.NO.296 of 2021 dated 10.03.2021 18 KL,J CRL.P.NOS.6450_2019 & 6121_2020 to interfere in the complaint/FIR/charge sheet in exercise of its inherent jurisdiction.

22. In view of the law laid down by the Hon'ble Apex Court in the above said judgments referred to supra, coming to the facts of the case on hand, as discussed supra, there are several factual aspects to be investigated into by the Investigating Officer during the course of investigation. Prima facie, there are specific allegations against the petitioners. The contents of the complaint dated 04.10.2019 constitute cognizable offence. In view of the same, this Court is not inclined to quash the proceedings in Crime No.900 of 219. The petitioners failed to establish any ground to quash the proceedings in Crime No.900 of 2019 by this Court by invoking its powers under Section 482 of Cr.P.C.

23. With regard to other contention of Sri T.Pradyumna Kumar Reddy, learned Senior Counsel appearing for the petitioners that, with regard to the very same issue between the very same parties registration of multiple crimes is not permissible, it is relevant to note that the Police, Banjara Hills, Hyderabad, have registered cases in Crime No.900 of 2019, 430 of 2019 and 519 of 2019 and the Police, Cyber Crime Police Station, Cyberabad, have registered cases in Crime Nos.84 of 2019 and 87 of 2019. To decide the said issue, it is opt to refer to the details of the crimes, allegations made therein, name of the Police Stations, name of the 19 KL,J CRL.P.NOS.6450_2019 & 6121_2020 complainants and name of the accused in the above said five crimes and they are as follows:

Sl.No. Crime Name Name of Name of Remarks/ Number of complainants accused allegations Police Station 1 84/2019 Cyber P.Kaushik S.Shivaji, Violation of Crimes Rao V.Ravi Prakash terms and Police and others conditions of Station Share Purchase Agreement dated 24.08.2019 2 87/2019 Cyber P.Kaushik V.Ravi M.V.K.N. Forgery of Crimes Rao Murthy and documents Police another Station 3 430/2019 Banjara P.Kaushik M.V.K.N.Murthy Cheating, Hills Rao and another criminal

Police breach of Station trust, causing wrongful loss to Directors and shareholders of ABCPL 4 519/2019 Banjara Sai Sudheer V.Ravi Prakash Unauthorised Hills and M.V.K.N. possession of Police Murthy the assets of Station ABCPL by V.Ravi Prakash and M.V.K.N.

Murthy

5	900/2019	Banjara Police Station	G.Singa Rao	V.Ravi Prakash and M.V.K.N. Murthy	Cheating, Hills criminal breach of trust, causing wrongful loss to Directors and shareholders of ABCPL

24. The above stated information mentioned in the tabular form would reveal that the complainants are different, the allegations alleged are different and issues therein are different. Some of the accused are common and complainants in some of the cases are one and the same and 20 KL,J CRL.P.NOS.6450_2019 & 6121_2020 the issues are with regard to operation of TV9 and other channels. Thus, the contention of Sri T.Pradyumna Kumar Reddy, learned Senior Counsel appearing for the petitioners, that with regard to the very same issue between the very same parties the above said five crimes are registered and hence, the registration of multiple crimes is impermissible, is not sustainable. He has placed reliance on the principle laid down by the Hon'ble Apex Court in T.T.Antony's case (supra). It is relevant to note that in a subsequent judgment in Surender Kaushik v. State of U.P.8, the Hon'ble Apex Court, referring to the its earlier judgments rendered in T.T.Antony (supra), Upkar Singh v. Ved Prakash9 and Bhajan Lal (supra), held that there cannot be two FIRs against the same accused in respect of the same case, but when there are rival versions in respect of the same episode, they would normally take the shape of two different FIRs and investigation can be carried out under both of them by the same investigating agency.

25. In Akbaruddin Owaisi's case (supra) registration of multiple FIRs in the same police station, for the same offences, explanation with regard to registration of two FIRs for the same occurrence / incident, were discussed and principles were laid down.

(2013) 5 SCC 148

(2004) 13 SCC 292

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26. In view of the above said discussion and law laid down by the Hon'ble Apex Court, as discussed supra, the complaints and allegations are different in all the cases and therefore, the contention of Sri T.Pradyumna Kumar Reddy, learned Senior Counsel appearing for the petitioners, that the Police, Banjara Hills Police Station, have registered the present crime i.e., Crime No.900 of 2019 during the pendency of the above said four crimes, as such, registration of multiple crimes is impressible, is unsustainable. Thus, viewed from any angle, the present proceedings in Crime No.900 of 2019 cannot be quashed for the reasons mentioned supra.

27. It is relevant to mention here that this Court, vide order dated 12.07.2019 in CRL.P.NOS.2743, 2747 and 2748 of 2019, granted anticipatory bail to accused NO.1 on certain conditions in Crime Nos.439, 84 and 87 of 2019 and vide order dated 08.03.2021 in CRL.P.NO.6121 of 2020, directed the Investigating Officer in Crime No.900 of 2019 not to arrest accused NO.2 in the said crime. However, it is made clear that investigation may go on. It is also relevant to note that this Court, vide order dated 16.10.2019 in Crl.P.No.6450 of 2019, directed the Investigating Officer not to proceed with the investigation in Crime No.900 of 2019 till 04.10.2019 in a petition filed by accused NO.1. The said order has been extended from time to time and it is in subsistence till today.

28. Learned Public Prosecutor, on instructions, would submit that since the punishment prescribed for the offences 22 KL,J CRL.P.NOS.6450_2019 & 6121_2020 alleged against the petitioners in Crime No.900 of 2019 is seven years or below seven years, the Investigating Officer has to necessarily invoke the procedure laid down under Section 41-A of Cr.P.C., by serving a notice on them.

29. In view of the said facts, this Criminal Petition is disposed of directing the Investigating Officer in Crime No.900 of 2019 pending on the file of Banjara Hills Police Station, Hyderabad, to strictly follow the procedure laid down under Section 41-A of Cr.P.C., and the guidelines issued by the Hon'ble Apex Court in Arnesh Kumar v. State of BIHAR10. However, it is made clear that the petitioners shall cooperate with the Investigating Officer by furnishing the information and the documents as sought by him in concluding the investigation. Miscellaneous petitions pending, if any, shall stand closed.

____________________K. LAKSHMAN, J Date: 01.06.2021 TJMR (2014) 8 SCC 273