

*** HONOURABLE SRI JUSTICE A.SANTHOSH REDDY**

+ CRIMINAL PETITION No.10304 of 2014

% 22.04.2022

Suggala Venkateswara Rao Guptha
S/o.Krishnamurthy,
Aged about 42 years, occ:Advocate
R/o.Plot No.106,
Venkata Sai Ram Towers, Mamillagudem,
Khammam, Khammam District.

..PETITIONER

VS.

\$ The State of Telangana through
SHO, Khammam II Town PS, Khammam District,
Rep.by its Public Prosecutor, High Court of
Andhra Pradesh, Hyderabad and another.

..RESPONDENTS.

! Counsel For The Petitioner: Sri Mummaneni Srinivasa Rao

^ Counsel For Respondents: Learned Assistant Public Prosecutor
for respondent No.1 and Sri K.B.Ramanna Dora, learned counsel
for respondent No.2.

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> Head Note :

? CITATIONS :

1. (2012) 9 Supreme Court Cases 512

HON'BLE SRI JUSTICE A.SANTHOSH REDDY**CRIMINAL PETITION No.10304 OF 2014****ORDER:**

This Criminal Petition is filed under Section 482 Cr.P.C to quash proceedings against the petitioner/A-8 in C.C.No.146 of 2014 on the file of First Additional Judicial Magistrate of First Class, Khammam.

2. The petitioner herein is a practicing Advocate and Legal Advisor to the Axis bank. A-1 to A-3 applied for loan under Kisan Credit Card Scheme "Kisan Power" of the Bank by submitting original R.O.R. title deeds, pattadar passbooks in respect of their lands as security in Axis bank, Wyra Road, Khammam. A-4 and A-5 executed documents as guarantors. The title deeds in favour of A-1 and A-2 were also registered in Sub-Registrar Office, Mahabubabad and in respect of A-3, simple mortgage deed was registered. A-1 availed loan of Rs.4,30,000/- on 03.11.2009. A-2 availed loan of Rs.7,80,000/- and A-3 availed loan of

Rs.9,80,000/-. The bank authorities addressed a letter to Tahsildar, Narsimhulapet on 02.02.2012 to certify the genuineness of the original ROR title deeds which were deposited by A-1 to A-3 with their bank. On 14.02.2012, the Tahsildar informed that ROR title deeds/pattadar passbooks deposited with Axis bank at Khammam Branch in respect of A-1 to A-3 are fake. It is alleged that A-1, A-2 and A-3 in collusion with guarantors A-4, A-6 Village Revenue Officer and A-7 Field Officer and A-8 Legal Advisor with an intention to cause wrongful loss to the bank authorities and for wrongful gain played fraud and obtained loan from the bank by giving security of the fake and fabricated ROR title deeds by fabricating and forging the signatures of revenue officials as security and used them as genuine and cheated the bank authorities. On the basis of complaint given by the second respondent herein, the police registered a case in Cr.No.149 of 2012 against the petitioner for the offences punishable under Sections

468, 471, 420 read with Section 34 IPC and after investigation, the police filed charge sheet.

3. Heard learned Assistant Public Prosecutor for respondent No.1-State and perused the material records.

4. The specific allegation against the petitioner herein is that A-1, A-2 and A-5 approached him and induced him and gave bribe of Rs.40,000/- (20,000+20,000) and the petitioner being Legal Advisor issued clearance certificate to sanction the loan without proper verification with the records of the office of Mandal Revenue Officer.

5. Learned counsel for the petitioner would submit that the petitioner is a legal Advisor and tendered legal opinion basing on the documents submitted to the bank authorities and he is nothing to do with the Rules of the bank and alleged fake documents, which were alleged to have been submitted by the A-1 to A-3. Learned counsel further submitted that upon perusing the documents submitted by the borrowers only, he tendered his legal opinion. As such, implication of the petitioner in the

present case is nothing but abuse of process of Court. In support of his submissions, he relied on the judgment of Apex Court in **Central Bureau of Investigation, Hyderabad v.K.Narayana Rao**¹.

6. Learned counsel for the second respondent submits that the legal Advisor has to personally verify the records and then submit his opinion. In the instant case, the petitioner gave legal opinion in collusion with other accused to enable the accused to borrow loans by submitting the fake documents.

7. The question therefore to be determined is, even if the entire allegations in the charge sheet which are leveled against the petitioner are true, whether he is liable for prosecution for the alleged offences punishable under Sections 468, 471, 420 read with Section 34 of IPC?

¹ (2012) 9 Supreme Court Cases 512

8. A perusal of the allegations in the charge sheet indicates that the petitioner/A-8 legal Advisor of Axis Bank, Khammam was induced by the accused to give legal opinion without proper verification of the records of the M.R.O. office.

9. The said allegation was levelled in the charge-sheet only and there is no allegation attributed to the Legal Advisor in the complaint filed by the Branch Manager, Axis Bank, Khammam. The petitioner was implicated in the charge sheet only at the time of filing of charge sheet. The allegation in the charge sheet that the petitioner in collusion with the other accused tendered legal opinion without proper verification appears to be imaginary and it is so mentioned in the charge sheet. The very fact that the bank relied upon the opinion of the petitioner clearly indicates that the opinion was called for by the bank. It is not the duty of legal Advisor to inspect the subject properties personally, identify the concerned persons, inspect and conduct searches in various offices as

expected by the bank authorities, the only duty of the Legal Advisor is that he should diligently examine the documents, material placed before him by a party and render his opinion with reference to the relevant provisions of law.

10. The prosecution has made a bald allegation that the other accused induced the petitioner and gave bribe. There is no specific allegation that he conspired with many of the borrowers and that the petitioner had any knowledge about the false documents alleged to have been produced by the other accused and in connivance with them, he gave legal opinion. Even assuming for a moment that the petitioner was not diligent while giving his opinion, with only bald allegation, it cannot be said that he committed the alleged criminal offences.

11. In the judgment of **Central Bureau of Investigation** (cited supra), the Hon'ble Supreme Court while considering the case of similarly placed Advocate, who is a panel Advocate held as under:

“The only allegation against the respondent Panel Advocate is that he submitted false legal opinion to the Bank in respect of the housing loans in the capacity of a panel advocate and did not point put actual ownership of the properties. The respondent was not named in the FIR. The allegations in the FIR are that A-1 to A-4 conspired together and cheated the Bank to the tune of Rs.1.27 crores. It is further seen that the offences alleged against A-1 to A-4 are the offences punishable under Sections 120-B, 419, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)c) of the Prevention of Corruption Act, 1988. It is not in dispute that the respondent is a practicing advocate and he has experience in giving legal opinion and has conducted several cases for other banks also including the Bank concerned here. The only allegation against him is that he submitted false legal opinion about the genuineness of the properties in question. However, it is the definite stand of the respondent herein that he has rendered legal scrutiny reports in all the cases after perusing the documents submitted by the Bank. It is also his claim that rendition of legal opinion cannot be construed as an offence. He further pointed out that it is not possible for the panel advocate to investigate the genuineness of the documents and in the present case, he only perused the contents and concluded whether the title was conveyed through a document or not. The respondent herein, as a panel advocate, verified the documents supplied by the Bank and rendered his opinion. He was furnished with xerox copies of the documents by the Bank and very few original documents, as well as xerox copies of death certificate, legal heirship certificate, encumbrance certificate, for his perusal and opinion. It is his definite claim that he perused those documents and only after that he rendered his opinion. He also advised the Bank to obtain encumbrance certificate for the period from 21-4-2003 till date. In the same way, he furnished legal scrutiny reports in respect of other cases also.”

12. This Court on earlier occasions dealing with some criminal petitions relating to other cases and other advocates took a view that it is for the party who seeks loan from the bank to furnish all the relevant title deeds, encumbrances and extracts from the relevant registers

from the registration office, municipal office and revenue authorities and after that it is the duty of bank officials and more particularly head of the Branch and field officers of the bank to make search of the said offices to find out genuineness of the said documents and submit a search report on the genuinity of the documents and record submitted by the party. Then only Panel Advocate undertake legal work by way of scrutinizing the records and documents and also search the report of the Field officer of the bank and finally to give legal opinion on all the said documents. The legal profession should be dissociate themselves from the said manual and clerical activity of the bank and restrict themselves only to professional work. Otherwise, there is every possibility of the legal profession losing its dignity and nobility.

13. In the instant case, in the complaint there is no specific reference of the petitioner as to the role played by him in the complaint and only in the charge sheet, it is mentioned that at the instance of other accused, a bald

allegation leveled that after taking some bribe, he gave legal opinion in their favour for sanction of loan without verifying the documents properly. The prosecution has only made bald allegations against the petitioner in the charge sheet. But no material is filed to show that the petitioner herein joined hands with A-1 to A-3 for giving false legal opinion and in the absence of the same, he cannot be implicated for the alleged offences.

13. After having gone through the entire material record, I am of the view that it does not disclose *prima facie*, commission of any of the offence by the petitioner. Since there is no *prima facie* material available against the petitioner for the offences alleged, the continuation of proceedings against him would be abuse of process of law and would amount to tarnishing the image of a professional without there being any supporting material to proceed against the petitioner.

14. In the light of the above discussion, it is, therefore, considered, as a fit case to invoke the inherent powers of the Court under Section 482 Cr.P.C., and quash proceedings against the petitioner in C.C.No.146 of 2014 on the file of First Additional Judicial Magistrate of First Class, Khammam.

15. The Criminal Petition is, accordingly, allowed and proceedings against the petitioner/A-8 in C.C.No.146 of 2014 on the file of First Additional Judicial Magistrate of First Class, Khammam, are hereby quashed. Miscellaneous petitions pending, if any, shall stand closed.

A.SANTHOSH REDDY, J

22.04.2022

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