

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

Criminal Petition No.3807 OF 2016

Between:

Smt.Khaja Krishnaveni and 5 others ... Petitioners/A1 to A6

And

1. The State of Telangana,
Rep. by its Public Prosecutor.
2. Sri Pulipati Prasad

...Respondents

Criminal Petition No.3833 of 2016

K.Chamundeswara Rao and 12 others ...Petitioners/A7 to A19

And

1. The State of Telangana,
Rep. by its Public Prosecutor.
2. Sri Pulipati Prasad

...Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 03.10.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|--|--------|
| 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CrI.P. No. 3807 of 2016

% Dated 03.10.2023

Smt.Khaja Krishnaveni and 5 others ... Petitioners/A1 to A6

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Rep. by its Public Prosecutor.

2. Sri Pulipati Prasad ...Respondents

! Counsel for the Petitioner: Srinivasa Rao Madiraju

^ Counsel for the Respondents: Additional Public Prosecutor for R1

And

Pillix Law Firm for R2

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION Nos.3807 & 3833 of 2016****COMMON ORDER:**

Criminal Petition No.3807 of 2016 is filed by petitioners/A1 to A6, and Criminal Petition No.3833 of 2016 is filed by the petitioners/A7 to A19 under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to quash the proceedings against them in C.C.No.52 of 2016 on the file of III Metropolitan Magistrate, Rangareddy. The offences alleged against the petitioners are under Sections 420, 468, 471, 406, 120B and 506 r/w.34 of the Indian Penal Code.

2. Heard.

3. The defacto complainant who is the brother of Accused No.1 filed a complaint alleging that Polomi Educational Society was established for the purpose of providing education to the poor and for their benefit. Accused Nos.1 and 2 were residents of USA and intended to provide funds for the said society. The society was established with the intention of providing free education and also to establish hospitals. On 26.03.2009, the society was transferred in the name of Accused Nos.1 to 5. Accused No.3 brought some unknown person and signed in the said society on the name of A1.

However, A1 was at USA at that relevant point of time. Accused Nos.1 to 15 have colluded with each other and brought a person and impersonated her as Accused No.1. A1 and A2 collected huge amounts from various persons at USA for the purpose of providing free education and also establishment of Hospital for the poor and sent the money to A3 by way of Hawala. However, A3 did not open any bank account in the name of society and she has personally collected the said amount. The passport, visa and Green Card of A1 and A2 would show that they were residing in USA at the time of registration of society i.e. on 26.03.2009. In the year 2012, the accused in collusion with others have filed a false complaint against the defacto complainant.

4. It is further alleged that the Accused Nos.6 to 15 are relatives and friends of Accused No.3 and A3 brought them as Economic Advisory members of the Society. Accused Nos.16 to 19 are the conspirators who brought some unknown person and impersonated as A1 and forged her signature. A3 with the assistance of A2 to A15 purchased property by using society funds which were collected at USA by A1 and A2. In pursuance of the criminal conspiracy, A3 to A5 purchased properties in the name of A6 to A15 at various places. Collectively, A1 to A15 defalcated the funds of society and also invested the society funds in M/s.MK

Unisoft India Private Limited, Madhura Towers, Tara Tycon, Tarnaka, Hyderabad. The accused also collected huge amounts from innocent persons. Accused No.1 gave a press statement in electronic media stating that she collected crores of rupees in USA and invested in the society, but has not shown the amount in the society account. Accordingly, all the accused have misappropriated the funds of the society.

5. On the basis of the said complaint, police filed charge sheet for the offences under Sections 420, 468, 471, 406, 120B and 506 r/w.34 of the Indian Penal Code.

6. During the course of investigation the witnesses LWs.1 to 8 were examined.

7. Learned Counsel appearing for the petitioners would submit that on account of disputes between the family members of the accused all the petitioners herein have been made as accused on the allegation that they have defalcated the society amounts. It is specifically stated that Accused No.1 had collected amounts in the USA, however, no such proof is provided. There is no basis for such allegation. For the said reason, proceedings have to be quashed.

8. On the other hand learned counsel appearing for the 2nd respondent would submit that the accused have colluded and caused heavy losses to the society by mis-appropriating the funds of the society. Crores of rupees were collected in the USA by Accused Nos.1 and 2 in the name of the society, however, such funds were not transferred to the society. But, by way of 'Hawala', Accused No.3 collected the money and mis-used the money by purchasing properties in the name of the other accused. For the said reason, the petitioners/accused have to undergo criminal trial to prove their innocence.

9. The genesis of the case is that crores of rupees were collected in the USA. Statements of all the witnesses have been filed, however, none of the witnesses state that they know any person who had donated to the society or any person who has given amounts to A1 and A2 in the USA. On the basis of press statement issued by Accused no.1 stating that funds were collected for the benefit of the poor, criminal proceedings cannot be continued. All the statements of witnesses are made assuming that amounts were collected by A1 and A2 in the USA. Not a single witness is examined who stated that any amount was donated to A1 and A2.

10. To attract an offence under Section 420 of the Indian Penal Code, there should be an act of deception pursuant to which property should have been delivered by the person deceived. Even causing wrongful loss, amounts to an offence of cheating.

11. In the present case except making statements that amounts were collected and transferred to India by 'Hawala', neither the Police have identified the alleged persons who have donated the said amounts and handed over to A1 and A2, nor the persons involved in the 'hawala' were identified. It is only an assumption that funds were collected and transferred to India. The question of criminal mis-appropriation would not arise since nothing was entrusted to these petitioners. The allegation of entrustment of society funds again has no basis except assumption.

12. In the absence of any evidence to the effect that any amount was collected in the USA and such amounts were subjected to criminal mis-appropriation, proceedings cannot be permitted to continue against these petitioners, only on the basis of alleged statement made by A1 in the press. Press statement is not evidence. The Court cannot rely on a press statement to conclude that A1 & A2 collected funds in the absence of any corroboration.

13. Accordingly, both the criminal petitions are allowed and the proceedings in C.C.No.52 of 2016 on the file of III Metropolitan Magistrate, Rangareddy, against petitioners/A1 to A6 in Criminal Petition No.3807 of 2016 and petitioners/A7 to A19 in Criminal Petition No.3833 of 2016, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 03.10.2023

Note: L.R.copy to be marked.

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THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.3807 & 3833 of 2016

Dt. 03.10.2023

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