

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

\*\*\*\*\*

Criminal Petition No.10772 OF 2022

Between:

Sunil Kumar Ahuja and another

... Petitioners

And

The State of Telangana,  
rep. by its Public Prosecutor,  
High Court for the State of Telangana,  
Hyderabad & another

... Respondents

DATE OF JUDGMENT PRONOUNCED: 04.01.2023

Submitted for approval.

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

- 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 the fair copy of the Judgment? Yes/No

---

**K.SURENDER, J**

\* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No. 10772 of 2022

% Dated 04.01.023

# Sunil Kumar Ahuja and another. ...Petitioners

And

\$ The State of Telangana,  
rep. by its Public Prosecutor,  
High Court for the State of Telangana,  
Hyderabad & another

... Respondents

! **Counsel for the Petitioners:** Sri T.Bala Mohan Reddy.

^ **Counsel for the Respondents:** Sri S.Sudershan

Additional Public Prosecutor for R1

>HEAD NOTE:

? Cases referred

<sup>1</sup> 1992 Supp (1) Supreme Court Cases 335

<sup>2</sup> AIR 1958 Supreme Court 857

<sup>3</sup> 1997(2) MWN (Cr.) 290

**HON'BLE SRI JUSTICE K.SURENDER****CRIMINAL PETITION No.10772 OF 2022****ORDER:**

1. The petitioners are questioning their implication in CC No.1227 of 2021 on the file of XII Chief Metropolitan Magistrate at Hyderabad, as Accused Nos.2 and 3 for the offences punishable under Sections 171-B r/w 171-E, 420 r/w 120(B) IPC, Section 25(1-B)(a) of Arms Act 1956 and 123(I) of The Representation of People Act 1951.

2. The case of the prosecution is that on 06.11.2018, the Inspector of Police, City Task Force received information that Hawala operators were planning to distribute crores of rupees to various political parties for bribing the voters in the forthcoming legislative assembly elections scheduled in the month of December 2018 in the State of Telangana. During checks, they intercepted the car of A1 on 07.11.2018 at 03.00 hours. The accused tried to escape from the police, however police chased and stopped the said car. In the said car two persons were present, who are A3/2<sup>nd</sup> petitioner and A4 (Mohd.Azam). On searching the dicky of the car, police found

Rs.2,00,07,500/- cash. The said amount and also the cell phones of A3 and A4 were seized under panchanama. Thereafter, the 2<sup>nd</sup> petitioner(A3) was taken by the police to his residence and found the 1<sup>st</sup> petitioner/A2 in the premises. Having searched the house, an amount of Rs.5,47,75,750/- along with cell phones, laptops, cash counting machine, 30 cheque books of various banks, land documents, blank non judicial stamp papers and blank signed cheques etc., were seized at the instance of the 1<sup>st</sup> petitioner/A2. From there, the police personnel also conducted search in the premises of A1's residence at Goshamahal and seized an amount of Rs.3,27,650/- and one .32 NP bore licensed revolver issued by the Karnataka Government and its area validity restricted to Gulbarga District.

3. During the course of investigation, the total amount of Rs.7,51,10,300/- was deposited with the State Bank of India, Criminal Courts Branch, Nampally, Hyderabad. Further, the investigation was done by the CCS Police and all the bank documents of these petitioners and other accused were also

collected during the course of investigation. According to the investigation, the Police found that crores of rupees were collected in the guise of shell companies and the same were meant for providing to the political leaders, who in turn would distribute the said monies to the voters in the elections to be held in the month of December 2018. The said acts of the accused in providing money to political leaders is nothing but cheating various governmental organizations, for which reasons charge sheet was filed.

4. Sri T.Niranjan Reddy, learned Senior Counsel appearing for Sri T.Bala Mohan Reddy, learned counsel for the petitioners would submit that none of the allegations made in the charge sheet make out any of the offences alleged under Section 171-B r/w 171-E, 420 r/w 120(B) IPC and Section 25(1-B)(a) of Arms Act, 1956 and 123(I) of The Representation of People Act, 1951.

5. He further submits that, reading of the provisions makes it abundantly clear that mere seizure of amounts from these petitioners would not entitle the police to prosecute them for

the offences alleged. He relied on the judgment of Hon'ble Supreme Court in the case of **State of Haryana and others v. Bhajan Lal and others**<sup>1</sup> and argued that where the uncontroverted allegations made in the FIR or complaint and evidence collected in respect of the same do not disclose commission of any offence or make out any of the offences, then the same can be quashed. He also relied upon the judgment of Hon'ble Supreme Court in the case of **S.B.Adityan v. S.Kandaswami**<sup>2</sup> and **S.Veeraraghavan v. Rajnikanth**<sup>3</sup> and argued that under similar circumstances, the Madras High Court had quashed the proceedings against the petitioners therein.

6. On the other hand, the learned Public Prosecutor submits that all the facts have to be decided during trial and the proceedings cannot be quashed.

7. In the present case, the police found huge amount of cash i.e., Rs.7,51,10,300/- from the possession of these

---

<sup>1</sup> 1992 Supp (1) Supreme Court Cases 335

<sup>2</sup> AIR 1958 Supreme Court 857

<sup>3</sup> 1997(2) MWN (Cr.) 290

petitioners and another on 06.11.2018. The alleged elections were scheduled in the month of December 2018. For the sake of convenience, Section 171-B & E of IPC are extracted hereunder:

“ [171B. **Bribery.**—

(1) Whoever(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right; commits the offence of bribery: Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.”

[171E. **Punishment for bribery.**—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both: Provided that bribery by treating shall be punished with fine only. Explanation.—“Treating” means that form of bribery where the gratification consists in food, drink, entertainment, or provision.]

8. To attract an offence punishable under Section 171-E of IPC, the ingredients of Section 171-B of IPC have to be fulfilled. If a person gives any gratification to any person for exercising any electoral right or for having exercised such right or accepts such amount from any person as a reward for exercising any right or inducing or attempts to induce any

person in exercise of such rights amounts to bribery. In the present case, the amounts were allegedly found in the possession of the petitioners. The police assume that the said amounts are meant for political leaders to bribe the voters in the ensuing elections of December 2018. Admittedly, no person was bribed or any money was accepted by those people for such purpose of exercising electoral franchise. For the said reasons, the offence under Section 171-B of IPC is not made out and consequently the question of prosecuting these petitioners for the offence of bribery punishable under Section 171-E of IPC does not arise.

9. The other offence is under Sections 420 r/w 120B IPC. To attract an offence of cheating, the ingredients of Section 415 of IPC have to be fulfilled. Under Section 415 of IPC, there has to be fraudulent misrepresentation and believing such misrepresentation and persons have been induced and parted with property. In such circumstances, offence of cheating punishable under Section 420 of IPC would be made out. In the present case, the political leaders for whom the amounts



were meant to be given are not identified nor the political parties. Mere possession of cash would not attract an offence of cheating. At the most, if the money is unaccounted, it may be an offence under Income Tax Act. Further, if the said amounts are identified as crime proceeds of any offence that was committed, the person possessing such cash can be prosecuted for the said offence.

10. In fact, the amount that was found was handed over to the Income Tax authorities, who have released an amount of Rs.2,00,07,500/- after adjusting the amount of Rs.5,47,75,150/- towards tax liability of the 1<sup>st</sup> petitioner/Sunil Kumar Ahuja/A2. On an affidavit given by the 2<sup>nd</sup> petitioner/A3 that the said amount of Rs.2,00,07,500/- is that of his father, the same was returned by the Income Tax Department.

11. The amount that was seized from these petitioners was adjusted towards tax liability of the 1<sup>st</sup> petitioner and remaining amount was released by the Income Tax Department after conducting enquiry. In the said

circumstances, it cannot be said that mere seizure of the said amount would entail prosecution of the petitioners. On the basis of the assumptions of the investigating authorities that it was meant for funding the political leaders to contest the elections in December 2018 elections, cannot in any manner sustain the prosecution against these petitioners.

12. In the result, the proceedings against these petitioners in CC No.1227 of 2021 on the file of XII Chief Metropolitan Magistrate at Hyderabad are hereby quashed.

13. Accordingly, the Criminal Petition is allowed. As a sequel thereto, miscellaneous applications, if any, shall stand closed.

---

**K.SURENDER, J**

Date: 04.01.2023

Note: L.R.Copy to be marked.

kvs

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

CRIMINAL PETITION No.10772 OF 2022

Date: 04.01.2023.

kvs