
(2013) 07 AP CK 0133

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 1472 of 2013

B. Ramana Rao

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 23-07-2013

Acts Referred:

Citation : (2013) 2 ALD(Cri) 546 : (2013) 3 ALT(Cri) 213

Hon'ble Judges : B. Chandra Kumar, J

Bench : Single Bench

Advocate : T. Niranjan Reddy, for the Appellant; R. Ramachandra Reddy (SC for ACB), for the Respondent

Judgement

B. Chandra Kumar, J.—This Criminal Revision Case is directed against the order dated 15.07.2013 passed in CrI.M.P. No. 476 of 2013 in C.C. No. 29 of 2008 by the learned Principal Special Judge for S.P.E. & A.C.B. Cases at Hyderabad. The brief facts of the case are as follows:

The petitioner herein, who is the accused in C.C. No. 29 of 2008, was working as Superintendent in the office of the Director of Works Account. The de facto complainant was working as Managing Director of M/s. Hiranya Solutions Private Limited, Hyderabad. The de facto complainant lodged a complaint against the petitioner alleging that the petitioner was demanding bribe of Rs. 5,000/- for fixing commission to M/s. Hiranya Solutions Pvt. Ltd. for providing Data Processing Officers to Pay and Accounts Offices in the State by outsourcing. As the de facto complainant was not willing to pay the bribe, he gave the complaint against the petitioner, and consequently, raid was arranged and the petitioner was caught red-handed. After completion of investigation, charge sheet was laid by the A.C.B. officials and the same is registered as C.C. No. 29 of 2008. The petitioner was granted bail and one of the conditions imposed is that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. The case was posted to 02.07.2013 for trial, on which day, the de facto complainant did not attend the

Court and it was reported that he was not feeling well. Then, the case was adjourned to 04.07.2013, and on that day, the Public Prosecutor filed CrI.M.P. No. 476 of 2013 along with the affidavit of the de facto complainant and sought cancellation of bail granted to the petitioner on the ground that he misused the liberty while he was on bail. In the affidavit, it is stated that the de facto complainant is working as Assistant Public Prosecutor and that the petitioner is filing complaints against him by making baseless allegations and that the de facto complainant was receiving threatening calls that if he proceeded with the case, he would face dire consequences. It is also his case that the petitioner lodged complaint against him before the Hon'ble Lokayukta which is numbered as Case No. 1449 of 2013 and also filed a petition with the Secretary (Law and Justice) causing damage to his reputation and to the reputation of his family. It is also the case of the de facto complainant that the Director of Prosecutions (FAC) in his brief note in para 6 with regard to O.A. No. 4696 of 2013 pending before the A.P. Administrative Tribunal, stated that he received a Memo No. 10590/Cts.A2/2013, dated 16.04.2013 on the petition filed by the petitioner to take immediate follow-up action. In paragraph 7, the Director of Prosecutions (FAC) recommended the Government to transfer the de facto complainant to Kodad and the Government issued G.O.Rt. No. 830 transferring him to Kodad. It is also the case of the de facto complainant that he reported the matter to the police station, Banjara Hills on 17.06.2013. The petitioner herein filed a detailed counter before the trial Court wherein he referred to Criminal Cases filed against the de facto complainant. He also stated that the de facto complainant was not eligible to the post of Asst. Public Prosecutor and did not put up required period of practice to become eligible for Asst. Public Prosecutor and that Memos were issued to him with regard to indiscipline acts, etc. There is no specific denial of the alleged complaints lodged against the de facto complainant before the Lokayukta or the Memo referred by the de facto complainant on which recommendations have been made by the Director of Prosecutions (FAC). The learned Special Judge, having gone through the entire material and the case laws cited by the parties, came to the conclusion that the petitioner had violated the terms and conditions of the bail, and therefore, it is just and reasonable to cancel the bail granted to him.

2. The main submission of the learned counsel for the petitioner-accused is that the case was posted to 02.07.2013 for the evidence of de facto complainant, on which day, the de facto complainant did not appear, as such, the case was again posted to 04.07.2013, and on that day also, the de facto complainant was absent and this shows that the de facto complainant was not inclined to give evidence before the Court. It is further submitted that the petitioner was granted bail in the year 2008 and from 2008 to 2013, he was on bail and there is nothing on record to show that he has violated the terms and conditions of the bail.

3. The learned Additional Public Prosecutor has submitted that the petitioner has been lodging complaints against the de facto complainant and forcing him to come to terms, by which it is clear that the petitioner has violated the terms and

conditions of the bail.

4. Heard the learned counsel for the revision petitioner and the learned Additional Public Prosecutor for the State and perused the material placed on record.

5. The only point that arises for consideration in this Revision Case is whether there are any grounds to interfere with the impugned order passed by the trial Court.

6. Every accused has to defend himself. For defending himself or to test the veracity of the evidence of the de facto complainant or the prosecution witnesses, the accused has every right to collect certain documents which help him in cross-examining the witness and impeaching his evidence. However, the main point for consideration is whether the accused, who is on bail, can lodge complaint against the witnesses or the de facto complainant and force them to come to terms.

7. Admittedly, the case was posted to 02.07.2013 for trial. As seen from the affidavit filed by the de facto complainant and the orders of the trial Court, it is clear that the petitioner herein approached Lokayukta and lodged complaint against the de facto complainant. It also appears that the petitioner addressed a letter against the de facto complainant on which the Director of Prosecutions (FAC) seems to have made some endorsement. It is also clear that basing on that endorsement and recommendations of the Director of Prosecutions (FAC), the de facto complainant was transferred to Kodad. When series of complaints and petitions have been lodged against the de facto complainant, the petitioner's motive appears to be clear that in order to threaten the de facto complainant to come to terms, those complaints have been lodged against the de facto complainant. The contents of the complaints may be true, but the time and the circumstances under which those complaints have been made have to be taken into consideration. There is nothing wrong in the petitioner collecting material under Right to Information Act to impeach the credibility of the de facto complainant, but the petitioner cannot threaten the de facto complainant. If at all the de facto complainant has committed any misdeeds, it is for the authorities concerned to take action against him. The finding of the trial Court that the petitioner misused the liberty seems to be well-founded and based on record. There are no grounds to interfere with the reasoned order passed by the trial Court. Hence, the Criminal Revision Case is dismissed. However, it is made clear that after completion of the evidence of PW1, the petitioner is at liberty to file an application for grant of bail, and on such application being filed, the learned Special Judge for SPE & ACB Cases, at Hyderabad may consider it and pass appropriate orders thereon. The learned Special Judge is also directed to complete the evidence of PW1 as early as possible within a period of four weeks from today.