
(2014) 07 BOM CK 0196

In the Bombay High Court

Case No : Criminal Writ Petition No. 455 of 2006

Bhaskar

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 03-07-2014

Acts Referred:

Citation : (2014) ALLMR(Cri) 3646

Hon'ble Judges : S.S. Shinde, J;P.R. Bora, J

Bench : Division Bench

Advocate : V.R. Dhorde, Advocate for the Appellant; K.M. Suryawanshi, APP, Advocate for the Respondent

Judgement

S.S. Shinde, J.—Heard learned Counsel for the petitioner and learned A.P.P. Under a scheme introduced by the Government of Maharashtra known as "Playground and Gymnasium at every village", the Ratnadeep Medical Foundation & Research Centre, Ratnapur, a trust registered under the provisions of Bombay Public Trust Act, of which the petitioner is a president, had also received a grant of Rs. 75,000/-. As usual, there were certain conditions to be fulfilled by the recipient of the grant. In so far as first installment of the grant amounting to Rs. 75,000/- is concerned, the trust was under an obligation to utilize the said amount for the purpose of erecting a compound wall within a period of a month. The trust was also required to invest 20 per cent amount from its own fund.

2. On the allegation that the Ratnadeep trust did not utilize the amount of Rs. 75,000/- for the purpose it was given but prepared false documents showing that the said amount was utilized for the given purpose, FIR was lodged against the present petitioner being President of the trust along with the other trustees on 12.4.2006, for misappropriation of the said amount and for cheating the Government.

3. Learned Counsel for the petitioner submitted that since there were certain difficulties in utilizing the aforesaid amount for the purpose it was given, a

representation was made by the petitioner's trust with the Government seeking extension of time and the Government had granted further one month's time for utilizing the said amount and for completing construction of the compound wall as well as the gymnasium.

4. Learned Counsel invited our attention to the letter dated 12th April, 2006, under signature of the Desk Officer of the State Government, written to Director of Sports and Youth Services wherein it is specifically mentioned that one month's time has been provided to the petitioner trust for carrying out the construction of the, compound wall and if the said construction is not completed within that period, further action may be initiated against the said trust for recovering the amount of grant with interest and penalty.

5. Learned Counsel submitted that inspite of there being instructions from the Government, not to initiate any criminal proceeding against the petitioner trust, the FIR came to be lodged against the petitioner and other office bearers of the trust.

6. Learned Counsel pointed out that since the petitioner's trust could not fulfill the conditions, it has returned the grant amount of Rs. 75,000/- received to it with interest thereon totalling to Rs. 86,250/- to the Government. Learned Counsel pointed that copy of the Challan by which said amount was deposited in Government treasury has been filed on record by the petitioner trust. We have perused the same. Learned A.P.P. has conceded to the facts so stated by the learned Counsel for the petitioner.

7. After having noticed the facts involved in the present case, it is apparent that the FIR was unnecessarily filed against the petitioner and other office bearers of the trust. In fact, when the Government itself has extended the time of one month for utilizing the said grant, there was no question of making any allegation as are revealing from the impugned FIR that the said amount was misappropriated by the trust and/or the petitioner trust has cheated the Government. It is significant to note that the letter by which the Government has informed the Director of Sports and Youth Services that one month's time has been provided to the petitioner trust for utilizing the grant is of the date 12.4.2006 and on the same day, the FIR has been lodged. Moreover, it is quite evident that there was absolutely no reason for filing such FIR when the Government itself has provided time to the petitioner's trust till 12.5.2006 for utilizing the grant amount. In view of the fact that the petitioner trust has returned the entire amount of grant with interest thereon within the period provided in the letter dated 12.4.2006, referred here-in-above, no cause of action survives for any penal action.

In view of the discussion made herein-above, the request of the petitioner to quash the FIR impugned in the present petition deserves to be allowed.

Accordingly, the petition is allowed.

Rule is made absolute in terms of prayer clause B.