
(2012) 02 AP CK 0071

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 1235 of 2012

Bodepudi Bala Sekhar

APPELLANT

Vs

A.S. Gill and The State of A.P.

RESPONDENT

Date of Decision : 01-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2012) 02 AP CK 0071

Hon'ble Judges : K.C. Bhanu, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K.C. Bhanu

1. The Criminal Petition is filed u/s 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") seeking to quash all further proceedings in FIR No.11 of 2012 of Bapatla police station, Guntur District.

2. Case of the prosecution, in brief, is first respondent lodged a report against the petitioner and two others alleging that since 27.03.2002, the petitioner has been working as Manager of Unit Run Canteen and he is responsible for all monetary transactions and books of account, and that after receiving detailed report from the Accounts Officer, certain discrepancies and deficiencies were found in cash balance and that on verification it was found that an amount of Rs.25,96,358/- is alleged to have been misappropriated by the petitioner and other accused, and that a case in FIR No.37 of 2011 dated 25.03.2011 was registered, and that on detailed enquiry, it was revealed that the petitioner failed to account for the cash as per cash book and to hand over the cash to officer-in-charge from 21.02.2011 to 06.03.2011 and thus caused a loss of Rs.2,14,000/- to Unit Run Canteen and that the books of account are missing from the Canteen.

3. Learned counsel for the petitioner contended that for the self-same allegations, earlier a report was lodged on 23.3.2011 and therefore continuation

of the impugned proceedings is nothing but abuse of process of court.

4. On the other hand, the learned Additional Public Prosecutor contended that the allegations leveled in the present complaint are separate and distinct pertaining to a different period, and as the allegations made out a prima facie case for the offences alleged, there are no grounds to quash the same.

5. The ingredients in order to constitute a criminal breach of trust are : (i) entrusting a person with property or with any dominion over property; (ii) that the person entrusted (a) dishonestly misappropriating or converting that property to his own use; or (b) dishonestly using or disposing of that property or willfully suffering any other person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged; (ii) of any legal contract made touching the discharge of such trust.

6. As seen from the earlier complaint, the misappropriation alleged against the petitioner is relating to the period from 31.3.2004 till 31.3.2010. Whereas, in the present complaint, it is stated that due to the illegal acts of the petitioner, the complainant sustained loss to a tune of Rs.2,14,000/- from 21.2.2011 to 6.3.2011 and that the petitioner failed to account for the cash as per cash book and hand over cash to the officer-in-charge. Therefore, prima facie, the allegations show that there was entrustment of property and it was allegedly misappropriated by the petitioner which acts have to be investigated into by police during the course of investigation. Therefore, the question of quashing the impugned proceedings at the initial stage may not arise. When the allegations in the First Information Report made out a prima facie cognizable offence, then it is the statutory duty of police to conduct investigation and the same cannot be curtailed.

7. The Criminal Petition is devoid of merit and is, accordingly, dismissed.