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In the Andhra Pradesh High Court

Case No : Criminal Petition No. 13549 of 2013

Dr. Renuka Datla and another	APPELLANT
Vs	
Purnima Mantena and Indira P. Raju	RESPONDENT

Date of Decision : 23-03-2016

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2016) 2 ALTCrl 338 : (2016) 3 Crimes 203

Hon'ble Judges : Dr. B. Siva Sankara Rao, J.

Bench : Single Bench

Advocate : Mr. T. Pradyumna Kumar Reddy, Counsel, for the Appellant; Mr. Alladi Ravinder, Counsel, Public Prosecutor (TG), for the Respondent

Final Decision : Disposed Off

Judgement

Dr. B. Siva Sankara Rao, J.—The petitioners are accused Nos.1 and 2 in Crime No.157 of 2013 of Central Crime Station, DD, Hyderabad registered for the offences punishable under Sections 380 and 406 IPC, from the report of 1st respondent-defacto complainants dated 28.10.2013 by name M/s.High Tech Medicals Private Limited & VR Packing Company Private Limited, represented by its directors Purnima Mantena and Indira P. Raju to the Deputy Commissioner of Police, Detective Department, Central Crime Station, Hyderabad which reads as under:

(1) (a) that the defacto complainants-Purnima Mantena and Indira P.Raju, Directors of High Tech Medicals Private Limited and VR Packing Company Private Limited, having their office premises at flat Nos.1501 to 1503, Babukhan Estate, Basheerbagh, Hyderabad, where they keep all records, files and computers and running their operations pertaining to family trusts, private limited companies etc., at the above address for the last several years and there is essential records without which the activities have standstill and those are all liable to income tax authorities for payment of income tax and for filing returns. That the defacto complainants are apprehending that they would be liable as directors and

beneficiaries for payment of penalties and those records and software computers are worth of more than a crore of rupees and if no record is available, the employees could not function in the premises. Suddenly, all their office records were found stolen and the stolen records are suspected to be under the control of one person Mrs.Pushpa (accused No.2) at H.No.2-2-12/3/A and 2-2-12/3/C Durgabai Deshmukh Colony, Hyderabad and they understand that accused No. 1- Dr. Reunka Datla and her secretaries, drivers all came to the premises early in the morning and removed the entire record.

(1) (b) that said accused No. 1-Dr. Renuka Datla as a shareholder and director in some companies has no right whatsoever to steal and remove the records from the office premises, hence to investigate the matter and take action and to hand over the records. Pursuant to which, the above crime is registered and impugning the same, the accused persons 1 and 2 sought for quash the criminal proceedings in Crime No.157 of 2013.

2. (a) The contentions in the quash petition are that the petitioners are innocent and falsely implicated; that 1st petitioner/accused No.1- Renuka Datla and her husband-Dr. Vijay Kumar Datla are the promoters of V.R. Packings Company Private Limited, incorporated in the year 1983 with articles of association, memorandum and certificate of incorporation enclosed to the quash petition.

2. (b) The defacto complainants 1 and 2 hold no shares in the company and it is amply reflected in Form 20B filed before the Registrar of Companies, as per annual filing return as on 31.03.2012. The 1st petitioner/ accused No.1, shareholder of the company and said form 20-B is filed as document No.3, which is also enclosed for reference for that 1st petitioner/ accused No.1 is highly acclaimed academician worked as Head of Department, Professor of Clinical Pharmacology and Medical Research at the Nizams Institute of Medical Sciences (NIMS) Hyderabad and she has been Executive Director of Biological E Limited since 1991, a reputed Pharmaceutical Company with a brand and image of its own through out the Country where the defacto complainants are share holders, none other than the daughters of the 1st petitioner/ accused No.1 herein and they have a grouse and grievance with regard to that company, as 1st petitioner/ accused No.1 has lodged a criminal complaint dated 10.04.2013 against them and their henchmen for their criminal acts before Chikkadpally Police Station, which is also enclosed to the quash petition.

2. (c) That 1st petitioner/ accused No.1 has been consistently raising the issue of illegal appointment of defacto complainants as Directors in the Biological E Limited and the eight letters were written by her to them and others, which shows the defacto complainants displeasure and grouse towards 1st petitioner/ accused No. 1 from 22.08.2013 and the letters also enclosed to the quash petition.

2. (d) That the defacto complainant and others having been apprehending the legal action by the 1st petitioner, reflected by 15 caveats copies filed against 1st

petitioner, before various forums, which also enclosed to the quash petition. A reply to those letters sent to 1st petitioner/accused No.1 by one of their yes men, G.V. Rao on behalf of M/s. Biological E Limited dated 30.10.2013 shows already a Criminal Case is contemplated by the 1st petitioner/accused No.1 against said G.V. Rao and another for filing false Form-32 online application by virtue of which, the defacto complainants are proclaiming themselves as Directors of Biological E Limited, the same is also enclosed to the quash petition. The 1st petitioner/accused No.1 and her husband created several trusts and after the demise of her husband, 1st petitioner/ accused No.1 is running as a single trustee of the trust.

2. (e) She further averred that: Above facts testify that the present Criminal Case is nothing but preemptive strike by filing a false case to malign the 1st petitioner/ accused No.1 and the two charges levelled against of theft and breach of trust are untenable. There is no any entrustment and in the absence of which, there is no any criminal breach of trust. Even the alleged theft is unthinkable. The 2nd petitioner/ accused No.2 is an old lady of 71 years, who works as a house keeper and care taker of 1st petitioner/ accused No.1 and is roped unnecessarily. Theft and breach of trust are both unreconcilable even to register the crime for both sections and even a document is entrusted for arguments sake, in the absence of showing converted or enchased or misappropriated, the question of breach of trust does not arise. The report given to police is with oblique motive and malafide invocation of powers of police to investigate without even any basis to suspect the alleged offences and the same is nothing but abuse of process and the forcible entrustment of the case with a direction to investigate a person not the Investigating Officer is an abuse for personal benefits apart from the present case is a counter blast to criminal acts of defacto complainants and GV Rao in admitting the defacto complainants as directors of Biological E Limited to anticipate the action. The 1st petitioner is also aged about 67 years and both of them are unlikely to move out and they are apprehending arrest and thereby, the interim direction to be granted and the proceedings are liable to be quashed.

3. (a) Counter affidavit is filed by the Investigating Officer with a petition dated 16.09.2014 to vacate the interim stay which reads that (a) After registration of the crime, the 1st petitioner/ accused No.1, who is with the assistance of accused No.2 cause removed the records from the office premises on 27.07.2013 at early morning hours was asked to hand over the records and other items for which the 1st petitioner/ accused No.1 refused.

3. (b) In the course of investigation, ten witnesses were examined including two directors of the defacto complainant''s entity and even investigation completed, charge sheet could not be filed as the accused persons in the mean time filed the quash petition and obtained interim stay on 20.06.2014 in Crl.M.P. No. 12506 of 2013 in Crl.P. No. 13549 of 2013 and thereby, the stay is to be vacated.

4. Heard learned counsel for petitioners and also learned counsel for 1st

respondent-de facto complainant represented by two directors Purnima Mantena & Indira P. Raju, and learned public prosecutor representing the 2nd respondent. Perused the material on record.

5. (a) From the above coming to decide the quash petition, the VR Packages Private Limited is it appears with registered office at A-28 & 29, Road No.16, IDA, Nacharam. As per Form 20B of the annual return filed with the Registrar, column No.4 regarding details of Directors, Managing Director, Manager and Secretary as on 31-03-2012 the Annual General Meeting shows Indira Pusapati and Purnima Mantena are directors of the complainant entity-Hitech Medicals Private Limited & VR Packing Private Limited and that they were admitted and appointed on 21.08.1991 and 16.01.1989 as director and whole time director respectively and they also signed in the annual report on 29.09.2012. Further, one Rudraraju Prabhakar Varma was appointed as director on 29.05.2000 and seized to be a director w.e.f., 15.12.2011. There are no other names either as directors or as seized directors of the entity certified as VR Packing Private Limited. The 1st petitioner-accused No.1 much less her husband Dr.Vijay Kumar Datla are not shown as director or managing director of said VR Packing Private Limited.

5. (b) No doubt, the petitioner No.1/ accused No.1 lodged a complaint on 10.04.2013 before the Inspector of police, Chikkadpally stating that she is an Executive Director of Biological E Limited against Ms.Sultan, A.V.P and Mr. Sreeha V.P. Finance and accountant of Biological E Private Limited have taken away the statutory records, share transfer forms, minute books, common seal, cost audit digital signatures etc., without permission by committing theft and a written complaint already lodged by Company Secretary, Biological E Limited that is also attached to take action and to hand over the records etc.

5. (c) The other material is regarding Biological E Limited, the meeting of Board of Directors of the company was shown held on 22.08.2013, 25.09.2013 and on 07.10.2013 regarding mismanagement of the affairs of entity, and on 08.10.2013 for inspection of books of accounts and requested for registered post communications sought by petitioner No.1/ accused No.1 as director and share holder of Biological E Limited etc., and about the caveat petitions filed by Indira P. Raju, those are not of much relevance here but for to consider regarding the motive behind the defacto complainants, if at all, as per the allegation of outcome of false complaint with vindictiveness, without basis and as counter blast in regard to the affairs of Biological E Limited. In fact, VR Packing Private Limited is shown as separate entity with memorandum and articles of association and company registration and in VR Packing Private Limited''s Memorandum, certificate of incorporation No.3895/82-83, Vijay kumar Datla, the late husband of petitioner No.1/ accused No.1 was one of the share holder.

5. (d) The petitioner No.1/ accused No.1 stated that she is wife of Vijay Kumar Datla, one of the share holders and each got 300 equity shares as subscribers of whom, accused No.1''s husband-Vijay Kumar Datla breathed the last on

20.03.2013. They are not the directors even but for shareholders including from Form 20B referred and discussed supra.

5. (e) Now coming to the other contest as to it is a theft or breach of trust concerned, undisputedly there is no any entrustment to the accused No.1 and 2 by the complainant or any others of the records much less to apply any criminal breach of trust covered by Section 406 IPC, even so far as the offence of theft under Section 380 IPC concerned taking away the records, which is part of movable property from the premises of VR Packing Private Limited is supposed to be under the control of the company Managing director and board of directors and once such is the case, leave about accused No.2, who is working under accused No.1, so far as accused No.1 concerned, she is a mere shareholder and not even a director from the record referred supra. When such is the case, so far as the allegation, leave about truth, there is once accusation that attracts the offence under Section 380 IPC for nothing to impugn the competency of complainants, who are directors of the VR Packing Private limited, it cannot be said the offence under Section 380 IPC even on its face no way apply.

5. (f) The other material filed shows the brochure of Pack Mates Packaging (I) Private Limited and the material in relation to it is in fact not connected to VR Packing Private Limited for nothing to show VR Packing Private Limited, name is so changed much less with approval of Registrar of Companies. As such the additional material filed in this regard is no way relevant to the quash petition on hand of the crime concerned. Even for M/s. Pack Ments Packaging Private limited, it shows the other is M/s. V.R. Farms Private Limited, represented by one S.S.Rama Chandra Raju as Manager and other representing by one M. Ravichandra Reddy on behalf of M/s. Pack Mates Packaging (I) Private Limited.

5. (g) The sale deeds dated 10.05.2013 executed on behalf of VR Farms was by said S.S. Ramachanra Raju as Manager. Husband of the petitioner/accused No.1 by name Vijay Kumar Datla died on 20.03.2013, whereas the present crime registered was from the report dated 28.10.2013. Once the Investigating Officer filed his affidavit to vacate the stay saying the investigation is completed and final report to be filed for taking cognizance by the learned Magistrate, there is nothing to interfere so far as the offence under Section 380 IPC concerned, but for left open in the event of such final report filed and taken cognizance by the learned Magistrate and supplied copies to the petitioners, for the petitioners to impugn afresh or to seek for discharge in the course of hearing before charges for the offence under Section 380 IPC concerned.

6. Accordingly and in the result, the Criminal Petition is disposed of while quashing the Crime No.157 of 2013 of CCS, DD, Hyderabad, so far as the offence under Section 406 IPC concerned, by left open the crime pending from completion of investigation to file final report so far as the offence under Section 380 IPC concerned, by left open the remedy either to impugn the proceedings or seek to discharge. It is after final report and cognizance taken, if any on summoning, bonds for future due appearance can be obtained as both

petitioners/ accused Nos.1 and 2 being senior citizens and age old ladies, they can be permitted for filing 205 Cr.P.C or Rule 37 Crl.R.P. to represent through special vakalath holder or one to represent the other as the case may be, with necessary conditions of personal appearance as and when required.

7. Miscellaneous petitions, if any pending in this Criminal Petition shall stand closed.