

THE HON'BLE SRI JUSTICE K.SREENIVASA REDDY

Criminal Petition No.1769 of 2023

ORDER:-

This Criminal Petition, under Section 482 Cr.P.C., has been filed by the petitioners/Accused Nos. 5 to 9 to quash the proceedings in Crime No.346 of 2021 of Mangalagiri Rural Police Station, Guntur Urban.

2. A case has been registered against the petitioners and others for the offences punishable under Sections 120B, 409, 471, 420 and 506 of the Indian Penal Code, 1860.

3. Case of the prosecution, in brief, is that, the defacto complainant who is working as Office Assistant in NRI Academy of Sciences lodged report that the NRI Academy is a Society registered under the A. P. Societies Registration Act, 2001 and the Rules made there under. Accused persons who are office bearers and who are custodian of income and expenditure of society conspired together, created an account under the head of 'buildings' and transferred an amount of Rs.4,30,72,966/- and thereby misappropriated the society funds by diverting them to their personal use.

4. Learned counsel for the petitioners contended that there are disputes between the rival groups for control over the Management Society. In that connection, Writ Appeal Nos.234, 142, 149, 204 & 253 of 2022 has been filed which arise out of Writ Petition No.13192 of 2021 before this Court. By a common Judgment dated 22.02.2022, this Court disposed of the Writ Appeals with observation that “with the consent of both the parties, Sri Justice Devinder Gupta (Retired Chief Justice) is appointed as sole Arbitrator to decide all existing disputes between the parties referable to Section 23 of the Act, 2001. It will remain open for both the parties to agitate the legal and factual aspects of the disputes before the Arbitrator. Learned Senior Counsel would agree that all pending litigations in relation to the subject dispute before any other legal forums/courts shall be withdrawn by the respective parties. Needless to say, depending upon the need and urgency, both parties would be at liberty to approach the Arbitrator for any interim order. We make it clear that the question of law pertaining to interpretation of Section 9 of the Act, 2001 is left open to be decided in appropriate proceedings.”

5. In view of the said common Judgment passed by the Court, the defacto complainant herein also filed an affidavit to that extent tendering his unconditional consent to quash the subject matter. Hence, at this stage, without going into the merits of the case and in view of the common judgment passed by this Court in Writ Appeal Nos.234, 142, 149, 204 & 253 of 2022 and taking into consideration of affidavit filed by the *de facto* complainant tendering his unconditional consent and no objection in quashing the proceedings in respect to the subject crime, this Court is of the view that continuation of proceedings would amount to abuse the process of law.

6. Accordingly, the Criminal Petition is allowed, quashing the proceedings in Crime No.346 of 2021 of Mangalagiri Rural Police Station, Guntur Urban, Guntur District, against the petitioners herein.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

JUSTICE K. SREENIVASA REDDY

Date:07.3.2023
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