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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2899 OF 2024

BYAPPANAHALLI PRABHAKAR REDDY KUMAR BABU

APPELLANT(S)

VERSUS

THE STATE OF TELANGANA

RESPONDENT(S)

O R D E R

- 1 The appellant who has been arrayed as accused No.13 in CC No.28/2013, for which cognizance has been taken for the offences punishable under Section 120B read with Section 420 of the Indian Penal Code, 1860 (for short, the 'IPC') and 12 of the Prevention of Corruption Act, 1988 (for short, 'P.C. Act'), seeks quashment by setting aside the impugned judgment passed by the High Court which inter alia held that the contentions raised are matters for trial, as a case is made out to proceed.
- 2 The entire case came into existence pursuant to a public interest litigation filed before the High Court of Andhra Pradesh in W.P Nos.794 and 6604/2011 which brought to the

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notice of the Court about the alleged irregularities committed by various public functionaries. A series of First Information Reports have been registered followed by eleven chargesheets. In the chargesheet dealing with the present offence, as stated, the appellant has been arrayed as accused No.13. Needless to state, he has not been arrayed as accused in any of the other cases. In one of the chargesheet which has been taken on file pertaining to CC No.14/2012, one Sri Nimmagadda Prasad has been arrayed as an accused, but not in the present one though there are substantial allegations made out.

- 3 The sum and substance of the case of the prosecution is that accused No.1's father (since deceased), by virtue of misusing his official position, has facilitated certain illegal benefits in favour of accused No.3 who in turn, by way of a quid pro quo transaction made sure that a sum of Rs.50 crores reached the accounts of Accused No.14- which is alleged to be a bogus company created by him.
- 4 The case against the appellant is that in his capacity as a friend of Accused No.3, has facilitated the transfer of shares through his company named M/S. Cornerstone Property Investments Pvt. Ltd. in which he is the Managing Director. Needless to state, the company which he represents as a Managing Director has not been arrayed as an accused party. The amount of Rs.50 crores which was

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subsequently transferred by him was actually transferred from the company owned by Accused No.3 - M/s Walden Properties Pvt. Ltd. It was done by way of purchasing the shares from the said company by M/s Cornerstone Property Investments Pvt. Ltd. Thereafter, the said money was routed through M/s Gilchrist Investments Pvt. Ltd., M/s Alpha Villas Pvt. Ltd. and M/s Alpha Avenues Pvt. Ltd. respectively. Surprisingly, neither of these companies nor the persons representing them have been arrayed as accused in the chargesheet. However, we point out that in the chargesheet, a specific reference has been made regarding the alleged role of one Sri Nimmagadda Prasad. Though he has been made as an accused in CC No.14/2012, dealing with different chargesheet which is, a fact mentioned by us earlier, despite his specific role in the present case, the respondent has neither arrayed him as an accused nor have they arrayed the so called the shell companies run by him. The following are the allegations made in the chargesheet against him:-

“During the investigation it has come to light that Sri Nimmagadda Prasad (who is A-3 in CC No.14/2012) of VANPIC Project joined M/s Indu Projects Ltd., in the year 2006 as a Director by investing about Rs.33 crores, Initially.

Sri I. Syam Prasad Reddy and M/s. Indu Projects Ltd., paid Rs.20 crores in M/s Carmel Asia Holdings Pvt. Ltd., and Rs.50.00 Crore to M/s. Jagati Publications Ltd., of Sri Y.S.

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Jaganmohan Reddy (A-1) in the year 2007, indirectly, routed in different layers.

The above said Rs.70.00 Crore forms part of Rs.180.50 Crore paid by Sri Nimmagadda Prasad to Sri Y.S. Jaganmohan Reddy (A-1) and his group companies in the guise of investments, during the years 2006-2007.

M/s. Indu Projects Ltd. received many undue favours from Government of Andhra Pradesh namely 250 acres of land at Shamshabad for M/s. Indu Techzone Pvt. Ltd. and 8,841 acres of land in Ananthapur District for their M/s. Lepakshi Knowledge Hub Pvt. Ltd. Etc.

It was alleged that these investments from various persons and companies including Sri Nimmagadda Prasad and Sri I. Syam Prasad Reddy (A-3) and Group Companies are nothing but bribe money paid by beneficiary companies and individuals who got allotment of lands for Special Economic Zones (SEZs), contracts for irrigation projects, special relaxation/permissions for real estate ventures, mines, etc. This is the kickback money paid to Sri Y.S. Jaganmohan Reddy (A-1) who has exercised his personal influence over his father and benefited them at the cost of public exchequer. Except these beneficiaries, no other person allegedly bought shares in M/s Jagati Publications Ltd. (A-14), at premium rate. Thus, it is alleged that they are the consequential result of illegal gains from the office of the Chief Minister and other persons, who are holding important positions in the Government. The company which was incorporated on 14th June, 2006 and accumulated a business loss of Rs.350 Crores in four years could get a total Investment of Rs.1246.00 Crores."

5 As against the appellant, the chargesheet proceeds to state the following allegations:-

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"Sri B.P. Kumar Babu (A-13), a long time business associate of Sri I. Syam Prasad Reddy (A-3) has facilitated routing of these funds through his company M/s Cornerstone Property Investments Pvt. Ltd., to M/s Gilchrist Investments Pvt. Ltd., M/s Alpha Villas Pvt. Ltd., M/s Alpha Avenues Pvt. Ltd., owned and controlled by Sri Nimmagadda Prasad in the sham of investments.

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.....From the above, it is clearly established that a total amount of Rs.50 Crore was received from M/s Cornerstone Property Investments Pvt. Ltd., Bangalore from their Current A/c No.130100301000325 at Vijaya Bank, Bangalore to the above mentioned three accounts i.e., Rs.20 Crore to M/s Gilchrist Investments Pvt. Ltd., Rs.15 Crore to M/s Alpha Villas Pvt. Ltd., and Rs.15 Crore to M/s Alpha Avenues Pvt. Ltd.

Scrutiny of all the above transactions of Current A/c No.130100301000325 of M/s Cornerstone Property Investments Pvt. Ltd., revealed that Rs.50 Crore received from M/s Walden Properties Pvt. Ltd., was in turn transferred to M/s Gilchrist Investments Pvt. Ltd., M/s Alpha Villas Pvt. Ltd., and M/s Alpha Avenues Pvt. Ltd., through cheques. This is evident from the balances of the account at that time. Except Rs.50 Crore received from M/s Walden Properties Pvt. Ltd., there were not any balances available in Current A/c No.130100301000325 of M/s Cornerstone Property Investments Pvt. Ltd., to transfer Rs.50 Crore to M/s Gilchrist Investments Pvt. Ltd., M/s Alpha Villas Pvt. Ltd., and M/s Alpha Avenues Pvt. Ltd."

6 The aforesaid position is also reiterated in the following paragraphs:-

"M. The role of the petitioner/appellant herein/A-13 is that he, being the longtime business associate of Sri I. Syam Prasad Reddy/A-3, facilitated the payment of bribe money to A-14/company owned by Sri Y.S. Jaganmohan Reddy/A-1, by routing the funds through an account opened

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in the name of his shell company M/s. Cornerstone Property Investments Pvt. Ltd. The sequence of events and the alleged transactions and associated facts are narrated in detail from pages 153 to 163 in the Charge Sheet. However, for the sake of records, highlights are summarized hereunder:

i. To start with Sri I. Syam Prasad Reddy/A-3, between 31.07.2007 and 09.10.2007, transferred Rs.50.00 crore in five transactions from his two bank accounts held in the name of Walden Properties Pvt. Ltd.; maintained with Bank of India, Hyderabad Branch and UCO Bank, Bangalore Branch to A/c 130100301000325 of Cornerstone Property Investments Pvt. Ltd. maintained with Vijaya Bank, CHM Road Branch, Bangalore:

ii. Immediately, between 02.08.2007 and 15.10.2007, the appellant herein/A-13, made onward transfers of the entire amount of Rs.50.00 crore to three bank accounts of Sri Nimmagadda Prasad viz., (i) Rs.24.00 crore to A/c. No. 00422000023009 of Gilchrist Investments Pvt. Ltd. (ii) Rs. 11.00 crore to A/c. No. 00422560001691 of Alpha Villas Pvt. Ltd. and (iii) Rs.15.00 crore to A/c. No. 00422560001709 of Alpha Avenues Pvt. Ltd. All these three accounts are maintained with HDFC Bank Ltd., Secunderabad Branch;

iii. This entire amount of Rs.50.00 crore was in turn, immediately transferred to the account of Jagati Publications Pvt Ltd./A-14 maintained with Oriental Bank of Commerce, Banjara Hills Branch, between 06.08.2007 to 17.10.2007. But for the unavoidable time gap for clearance of cheques, there was no delay in money transfers from the source account of Walden Properties owned by A-3 to the beneficiary account of Jagati Publications owned by A-1"

7 With the aforesaid factual backdrop, Mr. R. Basant, learned Senior Counsel appearing for the appellant made the following submissions:

- Though the appellant has been arrayed as an accused,

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the company represented by him has not been arrayed as such. The three companies through which the fund was routed to before ultimately reaching accused No.14, have not been arrayed as accused. Notwithstanding, the allegations against Sri Nimmagadda Prasad are that he has not been arrayed as an accused person in the present chargesheet.

- It is not the case of the prosecution that the appellant had no role in the routing of funds through the three companies which have not been arrayed as accused parties. Even assuming that the appellant is a friend of accused No.3, there is no material to implicate him in the entire transaction.
- In support of his contention that without impleading the company in which the appellant is stated to have been made a Managing Director, he cannot be arrayed individually as an accused.
- Learned Senior Counsel has placed reliance upon the following decision:-
 - i. Sunil Bharti Mittal Vs. CBI, (2015) 4 SCC 409
 - ii. SK Alagh Vs. State of UP, (2008) 5 SCC 662
 - iii. Maksud Sayed Vs. State of Gujarat & Ors., (2008) 5 SCC 668
 - iv. Sushil Sethi & Anr. Vs. State of Arunachal Pradesh, (2020) 3 SCC 240
 - v. Sharad Kumar Sanghi, (2015) 12 SCC 781

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8 Sh. Vikramjeet Banerjee, learned Additional Solicitor General appearing for the respondent vehemently contended that the High Court was correct in not going into the merits of the case as the contentions raised are a matter of trial. The chargesheet makes a specific reference about Sri Nimmagadda Prasad. There is no need to array the companies as accused parties since it is the specific case of the prosecution that these are all shell companies created by accused No.3.

9 Considering the charges levelled against the appellant, there is no need to interfere, especially, when the entire proceedings have been initiated pursuant to a direction issued by the High Court.

10 Lastly, it is submitted by the learned Additional Solicitor General that without prejudice to the contentions raised, the decision of this Court shall be made pertaining to the facts of the present case and, therefore, shall have no bearing on the other pending cases as well as the other accused in the present case.

11 Taking into account the facts as narrated in the chargesheet and the subsequent counter affidavit filed, we find absolutely no material to implicate the appellant and if that is the case, continuing the trial against him would amount to a travesty of justice. This we hold so while rejecting the contention of the learned senior

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counsel appearing for the appellant that without arraying the company, the appellant cannot be arrayed as an accused as it is the specific case of the prosecution that accused No.3 is the one who has created the shell companies. However, in the absence of any material to implicate him, especially, without arraying anyone from M/s Gilchrist Investments Pvt. Ltd., M/s Alpha Villas Pvt. Ltd. and M/s Alpha Avenues Pvt. Ltd. or any other third party such as Sri Nimmagadda Prasad, it will be very difficult to continue the proceedings against him. It is not even the case of the prosecution that the appellant has any role in these companies. While holding so, we are conscious of the fact that the primary accused are A-1, A-3 and A-14.

12 It is the case of the prosecution that accused No.14 is nothing but a shell company created by accused No.1 and the transfer was made by Accused No.3 to Accused No.14. Therefore, we are not going into those foundational facts which form the basis of the case of the prosecution. Perhaps the prosecution can make out a case against the other accused persons, a fact which we are not going into at this stage, as we are confining ourselves only to the role alleged to have been played by the appellant who has been arrayed as accused No.13 alone. Suffice it is to

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state that in the absence of any further role attributed to the appellant in the transaction made by him, or in the absence of any material attributed to the appellant, especially, bringing him within the purview of Section 120B of the IPC, it will be very difficult to hold that the proceedings against him are liable to continue. There is also no material to hold that he was hand-in-glove with accused No.3.

13 The offences as charged, in our considered view are not made out against the appellant for want of requisite material.

14 In such view of the matter, the impugned order stands set aside and the proceedings initiated against the appellant *alone*, are quashed. We make it clear that our order will not have any bearing on the trial against the other accused and, therefore, there is no bar for the pending proceedings to go on.

15 There is also no allegation of any benefit being accrued to the appellant as the specific case against him is that he transferred the money which was received by his company and subsequently sent forward to the three other companies as stated above.

16 For the aforesaid reasons, we are inclined to interfere with the judgment rendered by the High Court as it did not go into the submissions made on the point of law.

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17 The appeal is allowed accordingly.

18 Pending application(s), if any, shall also stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[ARAVIND KUMAR]

**NEW DELHI;
3rd OCTOBER, 2024**

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ITEM NO.113

COURT NO.12

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2899/2024

BYAPPANAHALLI PRABHAKAR REDDY KUMAR BABU

Appellant(s)

VERSUS

THE STATE OF TELANGANA

Respondent(s)

Date : 03-10-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mr. R. Basant, Sr. Adv.
Mr. Shekhar G Devasa, Sr. Adv.
Mr. Manish Tiwari, Adv.
Ms. Thashmitha Muthanna, Adv.
Mr. Sarath S Janardanan, Adv.
Mr. Prashanth Dixit, Adv.
Mr. Shashi Bhushan Nagar, Adv.
Mr. Vishwanath Chaturvedi, Adv.
For M/S. Devasa & Co., AOR

For Respondent(s) Mr. Vikramjeet Benerjee, A.S.G.
Mr. Nachiketa Joshi, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Mr. Prashant Rawat, Adv.
Mr. Shivank Pratap Singh, Adv.
Mr. Siddharth V Thakur, Adv.
Ms. Neelu Mohan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(Signed order is placed on the file)