

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.13593 OF 2015

ORDER:

1 This petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioner in COR.No.174 of 2015-16 on the file of Excise Police Station, Medak, registered for the offences punishable under Sections 34(a) of the A.P. Excise Act, 1968.

2 Heard the learned counsel for the petitioner, and the learned Additional Public Prosecutor representing the State.

3 The petitioner is the sole accused and the second respondent is the de-facto complainant in COR.No.174 of 2015-16 on the file of Excise Police Station, Medak. As per the allegations made in the complaint, the police seized 50 liters of toddy in the scooter bearing No.AP 10 Complainant 2968, which belongs to the petitioner. As per the allegations made in the complaint, the petitioner is selling toddy without obtaining licence.

4 The contention of the learned counsel for the petitioner is that the allegations made in the complaint do not constitute any offence, much less the offences alleged to have been committed by the petitioner.

While disposing of the petition filed under Section 482 Cr.P.C, the Court has to take into consideration the allegations made in the complaint. The Court is not justified in embarking upon an enquiry to ascertain the truthfulness or otherwise of the allegations made in the complaint. The very purpose of investigation is to ascertain the truthfulness or otherwise of the allegations made in the complaint. The allegations made in the complaint are, *prima facie*, sufficient to investigate into the matter. Whether the petitioner has committed the alleged offences or not will come to light during the course of investigation only.

5 Having regard to the facts and circumstances of the case on

hand and also the principle laid down in R.P.Kapoor v. State of Punjab^[1], State of Haryana v. Bhajan Lal^[2], V.Y.Jose v State of Gurajat^[3] and Teeja Devi v State of Rajasthan^[4], I am of the considered view that this is not a fit case to quash the proceedings at this stage.

6 The learned counsel for the petitioner submitted that the Station House Officer, Excise Police Station, Medak may be directed not to arrest the petitioner pending investigation in the crime.

7 Taking into consideration the nature of allegations made in the complaint and in view of the principle laid down by the Hon'ble apex Court in Arnesh Kumar v State of Bihar^[5], the Station House Officer, Excise Police Station, Medak is hereby directed to follow the procedure as contemplated under Section 41 A of Cr.P.C., in COR No.174/2015-16 of 2015 on his file.

8 Accordingly, this criminal petition is dismissed. As a sequel, miscellaneous petitions, pending if any in this Criminal Petition, shall stand closed.

T. SUNIL CHOWDARY, J

Date: 18th December, 2015

Kvsn

^[1] AIR 1960 SC 866

^[2] AIR 1992 SC 604

^[3] (2009) 3 SCC 78

^[4] 2015 (1) ACR 564 (SC)

^[5] 2014(8) SCALE 250