

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No.8547 of 2009

ORDER:-

This petition is filed under Section 482 Cr.P.C., to quash all further proceedings in S.T.C.No.246 of 2008 on the file of the II-Additional Metropolitan Magistrate for Railways, Secunderabad, registered under Section 147 of the Railways Act, 1989 (hereinafter, referred to as 'the Act').

2. The allegations in brief are that on 30-01-2008 the Dy.Chief Signal & Telecommunication Engineer, S&T Workshop, Mettuguda, Secunderabad, filed a complaint alleging that he was informed about the incident which took place on 18-01-2008 wherein the petitioner/accused – Sri Bandaru Dattatreya, who was former Minister of State for Railways, along with his followers made forcible entry into the workshop even though the security men tried to prevent them.

3. The contention of the petitioner/accused is that the present complaint is not maintainable, firstly, for the reason that cognizance of the said complaint was taken beyond the period of limitation as envisaged under Section 468 Cr.P.C., and secondly, not only there is abnormal delay of 12 days in lodging the complaint, but a *prima facie* perusal of the complaint do not make out any offence against the petitioner/accused.

4. The incident is said to have taken place on 18-01-2008. The offence alleged is punishable under Section 147 of the Act, which reads as under:-

“Trespass and refusal to desist from trespass:- (1) If any person enters upon or into any part of a railway without lawful authority, or having lawfully entered upon or into such part misuses such property or refuses to leave, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand

rupees, or with both.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the Judgment of the Court, such punishment shall not be less than a fine of five hundred rupees.

(2) Any person referred to in sub-section (1) may be removed from the railway by any railway servant or by any other person whom such railway servant may call to his aid.”

5. The offence is punishable with imprisonment upto six months or with fine. As per provisions of Section 468 Cr.P.C., the period of limitation for taking cognizance of an offence punishable with imprisonment for a term not exceeding one year is one year. That means, since the offence alleged is punishable with imprisonment for six months, the cognizance of the offence should be taken before 18-01-2009. However, as per the record, the learned Magistrate took the case on file on 16-02-2009. It is clearly beyond the period of one year.

6. In addition to the above, the record that is placed before the Court shows that on 18-01-2008, the complainant was informed by the security men that the petitioner/accused has arrived at the main gate along with his followers and raising slogans, that inspite of objections, the petitioner/accused along with others entered inside the workshop, which is prohibited, and after about half-an-hour they left the place. The statement also states that no nuisance was reported by the Section In-charge during that time and that normal functioning was not affected and there was no production loss due to the visit of the petitioner/accused. It is also on record that the petitioner/accused was formerly the Minister of State for Railways.

7. When the incident is said to have taken place on 18-01-2008, the complaint thereof is made on 30-01-2008 without there

being any explanation for the delay in lodging the complaint.

8. In view of the above, all further proceedings in S.T.C.No.246 of 2008 are liable to be quashed and accordingly, the Criminal Petition is allowed.

9. In the result, the Criminal Petition is allowed quashing all further proceedings in S.T.C.No.246 of 2008 on the file of the II-Additional Metropolitan Magistrate for Railways, Secunderabad, against the petitioner.

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

M.S.K.Jaiswal, J

September, 2015

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