

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

Criminal Petition No.353 of 2013

ORDER:

The petitioner is arrayed as Accused No.2 in C.C.No.338 of 2012 pending on the file of the Additional Judicial Magistrate of First class, Srikalahasthi, Chittoor District. The 1st accused was functioning as Public Relations Officer, while the petitioner herein, the accused No.2, was the Organizing Secretary of a reputed Ashram at Yerpedu Village in Chittoor District, which is established by a saint known in those parts as "*Malayala Swamy*". The Ashram carries on activities based upon Hindu religion and faith and it helps the devotees in their spiritual pursuits. Approximately, 300 girl students hailing from poor economic background take shelter in the Ashram and study in the various schools and junior colleges situated around. On 06-09-2015, a former Sarpanch of Yerpedu Gram Panchayat appears to have given an interview to a local television channel and in the course of the said interview, passed certain caustic remarks about the poor maintenance of the surroundings of the Ashram. The television channel has telecast the interview. It is, now, alleged that upon coming to know of the same, the accused got enraged and observed *dharna* before the Yerpedu Police Station without obtaining prior permission or intimation to the officers of the department. The *dharna* organized by the accused, it is stated, has caused obstruction to the general public, other passersby and other road users. The next day, the 1st accused is alleged to have taken out a procession comprising of the 300 girl-student inmates of the Ashram and staged a *dharna* from 3-30 pm at Puthalapattu – Naidupet man road, which *dharna* was organized once again without any prior intimation and / or without obtaining prior permission. During the course of the said *dharna*, action was insisted to be taken against the television channel and also

to arrest the former Sarpanch of Yerpedu Gram Panchayat, who leveled unjust allegations against the Ashram and as the *dharna* proceeded for two hours up to 5-30 pm throwing the vehicular movement on road out of bounds, both the accused are sought to be prosecuted for the offence punishable under Sections 341 and 109 of the Indian Penal Code (for short 'the Code') for causing wrongful restraint to the vehicular traffic.

Section 341 of the Code describes the punishment for wrongful restraint and it sets out that whoever wrongfully restrains any person as punishable with the simple imprisonment for a term which may extend to one month, or with fine which may extend up to five hundred rupees, or with both. Similarly, Section 109 of the Code deals with punishment for abetment, if such abetment is committed in consequence and where no express provision is made for its punishment. Thus, Section 109 is an omnibus provision. Most significantly, Section 95 of the Code has clearly brought out that nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Section 95 of the Code contained a very salutary provision based upon the ordinary good sense and temper, which one is ascribed and endowed with. That is a safety valve provided against the all and sundry from being prosecuted and in that process be subjected to the hardship of facing the prosecution. As is too well known, prosecution is not meant to persecute anyone, but is essentially intended to deal with a real wrong doer. The society's interests, at large, are what are sought to be protected by describing certain acts of commission or omission as offence. The whole of the narration of the events forming part of the charge sheet in the instant case clearly brought out that the Police are upset with the Organizing Secretary of an Ashram, which is intended to pursue spiritual path, in

taking a non violent protest before the police Station.

If I may observe, the Police have completely misunderstood the purpose which is sought to achieve by the petitioner herein in observing the *dharna* before the police station. He wanted the Police to initiate appropriate action against the offender who is seeking to manipulate the visual media to cause corresponding harm and hardship to the organizers of the Ashram and its inmates. Instead of dealing with the offender, the Police have preferred a softer option of prosecuting the petitioner protestor.

The charge sheet, when read as a whole, has not made out the offence alleged against the accused and in particular the petitioner herein and hence, the charge sheet is quashed.

With this, the criminal petition is allowed.

Consequently, the miscellaneous petition stands ordered.

**NOOTY RAMAMOHANA
RAO, J.**

mrk
22.06.2015.