

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Petition No.606 of 2015

ORDER:

In this petition, filed under Section 482 Cr.P.C., petitioners/A3 and A5 seek to quash the proceedings in C.C.No.678 of 2012 on the file of Judicial Magistrate of First Class, Adoni, Kurnool District.

2) On 17.05.2011, the Sub-Inspector of Police, I Town PS, Adoni while conducting house search along with staff in H.No.12/811 in Maseedpura, Adoni found A1 to A4 conducting cricket betting and on seeing them A3 and A4 absconded and on the confession of A1 and A2 police have seized some cash and cell phones. During the course of confession, A1 allegedly stated that he would handover the amount collected during betting to A5 and receive his commission. A2 also allegedly confessed that the amount collected by him during betting would be paid to A6 and he would get his commission. After investigation the police filed charge sheet against A1 to A6 under Sections 3, 4 and 9(1) of A.P. Gaming Act, 1974 of Adoni I town PS.

3) The submission of learned counsel for petitioners/A3 and A5 is that except the alleged confession of A1 and A2 before the police, there is no independent material to book case against them. Since the confession of a co-accused before the police is not admissible in evidence, continuation of proceedings against the petitioners will amount to abuse of process of law and hence

proceedings may be quashed.

4) Learned Public Prosecutor opposed the petition on the submission that sofaras petitioners are concerned, prosecution is basing its case not only on the confession of A1 and A2 but when they entered the house for search they found A3 and A4 ran away and A3 is none other than PC1983 of Adoni I Town PS and thus he was independently identified by the police and being a public servant and police, he committed heinous offences and therefore, he does not deserve quashing of proceedings. Sofaras the petitioner/A5 is concerned, learned counsel Public Prosecutor argued that he stays behind the screen and collects the betting amount from A1 and pays him commission and therefore, his involvement was also established. Therefore, he prayed to dismiss the petition.

5) Thus, hearing both sides this Court finds force in the submission of learned Public Prosecutor. It is true that confession before a Police Officer is hit by Section 25 of Indian Evidence Act. However, the facts in this case would reveal even without reference to the confession of A1 and A2 the police have independently identified one of the absconders i.e. A3 as Police Constable of I Town PS, Adoni and its effect can be decided only during the trial. Similarly, the role of A5 also can be revealed only after full fledged trial. Therefore, as the matter stands, it is not a fit case to quash the proceedings.

6) In the result, this Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall

stand closed.

U. DURGA PRASAD RAO, J

Date: 12.02.2015

Murthy