

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.2865 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioner/A2 seeks to quash the proceedings in PCORNo.483/2014-2015 on the file of Miryalaguda Prohibition and Excise Station, Nalgonda District.

2) The prosecution case is that on 02.01.2015, on reliable information, the SHO Miryalaguda staff and Task Force, Miryalaguda conducted route watch at Nandipad by-pass X road and they searched one auto with load proceeding from Miryalaguda to Aliapuram. During the search, they found 30 lumps of black jaggery each weighing 15 Kgs. totalling 450 Kgs. and 20 Kgs. of alum in a plastic bag from the possession of A1's auto. It is their further case that A1 failed to produce any permit or bills for transport of black jaggery and alum on interrogation A1 stated that black jaggery and alum which are raw-material for manufacturing of ID liquor were loaded into his auto by petitioner/A2 who is the vendor under the name and style M/s.Nithin Traders, Ganesh Market, Miryalaguda, at his licensed shop with instructions to deliver black jaggery and alum to ID liquor manufacturers of Aliapuram i.e. A3 to A7. On the said confession the police have seized the black jaggery and alum in the auto bearing No.AP 24 Y 8065. Hence, registration of case against the accused under Section 34(e) and 50 of A.P. Excise Act and 3(b) of GUR (Regulation of use) Order, 1968.

3) Denying the charges, it is vehemently argued by learned counsel for petitioner that the petitioner/A2 is a genuine businessman dealing in purchase and sale of other kirana items and purchase, sale and transport of black jaggery does not constitute an offence punished either under A.P.Prohibition Act, 1995 or A.P.Excise Act, 1968 and the petitioner/A2 has been doing business under valid certificate of registration issued by the Commercial Tax Department and therefore, continuation of criminal proceedings against him would amount to abuse of process of law and hence may be quashed.

4) Opposing the petition, learned Additional Public Prosecutor argued that black jaggery and alum were not only agricultural products but are raw-material for preparation of ID liquor and on reasonable suspicion the police can conduct search and seize and book cases against the culprits and in the instant case, huge quantity of black jaggery and alum were found in the auto of A1 for which A1 failed to produce any bills or receipts and on the other hand, he confessed that those raw-materials were loaded by petitioner/A2 in his auto with an instruction to deliver to the manufactures of ID liquor i.e.A3 to A7. Learned Addl. P.P. thus argued that if the allegations are uncontroverted, the accusation unerringly points out towards A2. Therefore, he does not deserve quashment of proceedings.

5) On hearing both sides and perusal of record, this Court finds force in the argument of learned Additional Public Prosecutor.

6) The confession of A1 besides his failure to produce the bills and permits in respect of huge quantity of black jaggery and alum shows a *prima facie* accusation against petitioner/A2 and other accused. Of course, whether prosecution can sustain its case on the mere confession of A1 or not is an aspect to be dealt with during the trial of the case, but as the matter stands, there is a *prima facie* accusation in the material produced by the prosecution. Therefore, it is not a fit case for quashing the proceedings. Petitioner/A2 is directed to face the trial and prove his innocence.

6) This Criminal Petition is accordingly dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 17.04.2015

Murthy