

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Criminal Petition No.873 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioners/A1 to A6 seek to quash the proceedings in C.C.No.497 of 2014 on the file of AJFCM, Palakol, West Godavari District.

2) The factual matrix of the case is thus:

A6 is the Secretary of Sri Mamidi Chinna Venkata Sivaiah Memorial Town Hall, Palakol, West Godavari District. LW7—Inspector of Police, Palakol Town PS on information that illegal activities were being conducted in the said Town Hall raided the same on the night of 20.09.2014 at about 7.30 P.M. with the help of staff—L.Ws.6 to 12 and mediators—LWs.14 and 15 after obtaining Warrant from Sub-Divisional Police Officer, Narsapur.

During such raid, finding that the accused consuming liquor, seized six liquor bottles (180 ml. each capacity) and five glasses and arrested the accused and sent A1 to A5 to the Medical Officer for alcohol test and drafted mediators' report and after completion of investigation laid charge sheet against the accused for the offences under Sections 8 (a) of A.P. Prohibition Act, 1995 and Section 3 r/w 13 of A.P. Places of Public Resort Act, 1888.

3) The petitioners/accused challenged the validity of the proceedings on the following grounds:

- i) Mamidi Chinna Venkata Sivaiah Memorial Town Hall was registered under Societies Registration Act, 1860 (repealed A.P. Societies Registration Act, 2001) and in view of the provisions of the said Act Town Hall is not a public place but a private place and hence the provisions under A.P. Places of Public Resort Act, 1888 have no application.
- ii) The petitioners/accused have not consumed liquor as the medical report proved negative to the alcohol test and as such, the provisions of A.P. Prohibition Act are not applicable to the instant case.
- iii) In this case the complainant and Investigating Officer are one and the same person i.e. K.T.T.V.Ramana Rao, Inspector of Police, Palakol Town PS and Apex Court in a number of cases deprecated the complainant Police Officer's conducting investigation on the premise the investigation loses its credibility. On this aspect, they relied upon the following decisions.

1. *Bhagwan Singh vs. State of Rajasthan*^[1]

2. *Gurajala Ramesh v. State of A.P.*^[2]

- iv) The Investigating Officer bore grudge against the members of the Town Hall since the police on the earlier occasions filed several false cases in their attempt to obstruct the members from playing 13 cards game. The members were constrained to file writ petitions to get order to continue the 13 cards game. It is thus argued on behalf of petitioners that for all the above reasons, continuation of

proceedings will amount to abuse of process of law and hence the proceedings may be quashed.

4) Vehemently opposing, learned Additional Public Prosecutor submitted that the reasons shown for quashment of proceedings have to be tested and decided on the anvil of trial but not in the present application inasmuch as, whether Memorial Hall comes under A.P. Places of Public Resort Act or not is a mixed question of fact and law which has to be decided after trial and similarly, whether the petitioners were in a drunken condition or not is also to be decided after trial. He submitted that police are not solely depending on the evidence of doctor for proving the accused ingesting the liquor , but it relies also on the independent mediators i.e. L.Ws.14 and 15 and L.W.14 is a VRO and therefore, it is not apt to quash the proceedings basing on the expert opinion alone. He thus prayed to dismiss the petition.

5) In the light of above rival arguments, the point for determination is: *“whether there are merits in this Petition to allow?”*

6) **POINT:** On hearing both sides, this Court finds considerable force in the submission of learned Additional Public Prosecutor. The points of argument raised by the petitioners for seeking quashment are worth ponderance after due trial. The provisions of A.P. Places of Public Resort Act, 1888, whether applies to the Town Hall in question or not so as to attract the offences under Section 3 r/w 13 of the said Act has to be decided only after trial. So also, whether the petitioners/accused were

found in drunken stage or not has to be established during trial, on considering the entire evidence. It is true that the copies of medical reports filed along with the petition would show as if the petitioners/accused have not consumed the alcohol. But, the contention of the learned Additional Public Prosecutor is that the medical report is only an opinion of the expert and the prosecution is not basing its claim entirely thereon, but seeks to establish this fact through other available evidence also. So, as the matter stands, it is not apt to quash the proceedings at this stage. Therefore, the petitioners/Accused are directed to face trial and establish their defence.

7) In the result, the Criminal Petition is dismissed accordingly.

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

U. DURGA PRASAD RAO, J

Date: 25.03.2015

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[\[1\]](#) AIR 1976 SC 985

[\[2\]](#) 2003 (3) ALD (CrL.) 13 (AP)