

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WEDNESDAY THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FIFTEEN

PRESENT

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

CRIMINAL PETITION No.9052 of 2015

Between:

B.Prasad Rao and 7 others

..... PETITIONERS

AND

The State of Andhra Pradesh,

Rep.by its Public Prosecutor,

High Court, Hyderabad

.....RESPONDENT

The Court made the following:

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

CRIMINAL PETITION No.9052 of 2015

ORDER:

This criminal petition is filed by the petitioners/A2, A4 to A9 & A12 under Section 482 Cr.P.C to quash the proceedings in C.C.No.38 of 2013 on the file of the Judicial Magistrate of First Class, Adoni, Kurnool District, registered for the offences punishable under section 188 r/w.34 IPC.

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor, representing the State.

The allegations in brief are that the jurisdictional Sub-Divisional Police Officer issued promulgation under Section 30 of Police Act in Adoni Town on 02.09.2012 in view of death ceremony of Sri Y.S.Rajasekhar Reddy. In contravention thereof it is alleged that the petitioners herein along with others came and garlanded the Statue of Sri Y.S.Rajasekhar Reddy and held a meeting, causing disturbance in public place.

The learned counsel for the petitioner submits that the complaint in the present case was filed by ASI of Police, but not by the Sub-Divisional Police Officer who is said to have issued promulgation. The learned counsel further submits that in similar case, this Court in CrI.P.109/2012 vide orders dated 03.01.2012 quashed all further proceedings against the petitioners therein.

I have gone through the complaint and other material available on record. As seen from the order dated 03.01.2012 in CrI.P.No.109/2012, this Court observed that if there is any violation of order promulgated by the Sub-Divisional Police Officer, within the meaning of Section 188 IPC, the complaint ought to be filed by the Sub-Divisional Police Officer or any other person to whom such Sub-Divisional Police Officer is administratively subordinate in accordance with Section 195(1) (a) of Cr.P.C otherwise no Court is competent to take cognizance under Section 195(1) (a) of Cr.P.C.

The facts of that case are similar to the facts on hand. In this case, the ASI of police

filed the complaint, who is not the superior officer to the Sub-Divisional Police Officer. In that view of the matter all further proceedings against the petitioners here in the above calendar case are liable to be quashed.

In view of the above, the Criminal Petition is allowed, the proceedings in C.C.No.38 of 2013 on the file of the Judicial Magistrate of First Class, Adoni, Kurnool District against the petitioners/A2, A4 to A9 and A12 are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date:30.09.2015

Dsr