

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.5743 OF 2016

ORDER:

This Criminal Petition is filed by the petitioner-A1 under Section 482 Cr.P.C. seeking to quash the proceedings against him in C.C.No.75 of 2016 on the file of the Judicial Magistrate of First Class, Atmakur, SPSR Nellore District.

Heard and perused the material available on record.

The petitioners are alleged to have committed the offence punishable under Sections 447 and 379 r/w 34 IPC. It is alleged that even after expiry of lease period for catching the fish at Kaluvai tank by the Fishermen Co-operative Society, Kaluvai, the petitioner and his followers trespassed into the tank and authorizedly caught the fish in the tank. Coming to know about the same, VRO of Kaluvai and Panchayat Secretary of Kaluvai along with police officials visited the spot and auctioned the fish for Rs.94,000/- and credited the amount to the Government.

Learned Counsel for the petitioner raised the following grounds for consideration:

- i) The elections to the Managing Committee of the Fishermen Co-operative Society are yet to be conducted and in the meanwhile, the petitioner along with others caught fish in the tank and the said act of the petitioner would not amount to any offence either under Section 447 and 379 r/w 34 IPC;
- ii) The entire fish was sold in auction and there was no loss to the Government. Therefore, Section 379 IPC would not attract.
- iii) The petitioner is not a member of the society.

This Court does not find any force in the contentions raised by the learned Counsel for the petitioner. If it is the case of the petitioner that

he is not a member of the society, necessarily, the acts of the petitioner would amount to commission of the above offences. In the circumstances, this Court is not inclined to interfere with the trial in the above case.

Accordingly, the Criminal Petition is dismissed. However, the presence of the petitioner before the trial Court is dispensed with except on the date of framing of charges, if any; on the date of his examination under Section 313 Cr.P.C. and on the date of pronouncement of judgment. The petitioner is directed to be represented through a Counsel before the trial Court on all hearing dates. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Date : 21.4.2016

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DATED 21.4.2016

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