

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 41073 of 2015

ORDER:

This writ petition was filed to quash F.I.R.No.201 of 2015 on the file of Addakal Police Station, Mahabubnagar District. The said offence was registered under Sections 420 and 406 IPC r/w Section 7 of the Essential Commodities Act, 1955. The allegation was that the petitioners were involved in the illegal transportation of rice. However, the complaint made by the Sub-Inspector of Police, Addakal Police Station before the learned Judicial Magistrate of First Class, Special Mobile Court, Mahabubnagar, demonstrates that the seizure of the subject vehicle said to have been involved in the illegal transportation of rice was effected by the Assistant Sub-Inspector of Police. According to the Sub-Inspector, the said seizure was effected as per his instructions.

2. Sri V.H.V.R.R. Swamy, learned counsel for the petitioners, would however place reliance on ***Sri Vigneswara Traders vs. Circle Inspector of Police, Porumamilla Police Station, Kadapa District,***^[1] wherein this Court held that as per the Andhra Pradesh Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008, the designation of the officers of the Department who are empowered *inter alia* to seize stocks is specified and officers who are not below the rank of Sub-Inspectors alone are entitled to exercise such power. That being so, the Assistant Sub-Inspector, even if instructed by the Sub-Inspector, was not empowered to effect seizure under the aforestated control order.

3. Learned Assistant Government Pleader is unable to site any other provision of law which authorizes an officer below the rank of Sub-Inspector to effect the said seizure.

4. That being so, this Court is constrained to hold that the very seizure of the vehicle along with the rice which forms the basis for registering the FIR against the petitioners is illegal, being without the sanction of law. FIR 201 of

2015 on the file of Addakal Police Station, Mahabubnagar is accordingly quashed.

The writ petition is allowed. Pending miscellaneous petitions, if any, shall also stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

January 22, 2016

Note: -

Furnish copy by one week.

{B/o} Lmv

[\[1\]](#) 2013(5) ALT 9