

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.15248 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in C.C.No.13 of 2016 on the file of the Special Judicial First Class Magistrate (Excise), Eluru, West Godavari District.

The case of the prosecution is that the petitioner contested as M.L.A for Denduluru Constituency in 2014 Elections. It is alleged in the complaint that the petitioner acted in a manner of wrongful restraint, disobedience promulgated by public servant and promoting enmity between classes in connection with elections. Reportedly on 27.04.2014 at Eluru-Kaikaluru Road, Madepalli Centre the complainant reported that the petitioner along with other members were conducting unauthorized public meetings and obstructed traffic by fitting a mike to vehicle No.AP TC 6601, thereby violated the code of conduct and did not possess the original mike permit issued by the police authorities.

Learned counsel placed reliance on three judgments of this Court in **TUMMALA RAMA BRAHMAM & RAM AND ANOTHER V. THE STATE OF ANDHRA PRADESH REP. BY THE PUBLIC PROSECUTOR AND ANOTHER¹, S.PURNACHANDRA RAO AND ANOTHER v. STATE OF ANDHRA PRADESH AND ANOTHER², JASTI JAYALAXMI v. STATE OF ANDHRA PRADESH AND**

¹ 2015 SCC Online Hyd 358

² 2014(2) ALD (CrI.) 674

ANOTHER³ and unreported Judgment of this Court in CrI.P.No.5323 of 2009 (**N.T.RAMA RAO v. THE STATE OF A.P., REP. BY PUBLIC PROSECUTOR AND ANOTHER**) in support of his contention.

A similar question was decided by this Court in **N.T.RAMA RAO**'s case (unreported) and in **TUMMALA RAMA BRAHMAM**'s case, it was held that the proceedings shall not be continued due to technical defect of obtaining prior permission under Section 155(2) Cr.P.C. and taking cognizance on the complaint filed by V.R.O. and it is against purport of Section 195(1)(a) Cr.P.C.

Applying the principle laid down in the above judgments, this Court, while exercising power under Section 482 Cr.P.C., can quash the proceedings in CC. No.13 of 2016.

In **STATE OF HARYANA VS. BHAJAN LAL**⁴ the Apex Court laid down certain guidelines to quash the proceedings while exercising power under Section 482 Cr.P.C. Wherein, guideline No.6 is relevant, which says that where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious remedy to redress the grievance of the aggrieved party.

Accordingly, the proceedings in C.C. No.13 of 2016 on the file of Special Judicial First Class Magistrate (Excise), Eluru, West Godavari District are hereby quashed by exercising power under Section 482 Cr.P.C.

³ 2014(2) ALD (CrI.) 682

⁴ 1992 Supp (1) SCC 335

In the result, the criminal petition is allowed.

Consequently, miscellaneous applications pending if any shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:26.10.2016
SP

