

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.4544 of 2016

ORDER:

The Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioner seeking to quash the proceedings in C.C.No.718 of 2014 on the file of the Additional Judicial First Class Magistrate, Narsipatnam, Visakhapatnam District, arising out of offences under Sections 171H and 181 IPC.

Heard and perused the material available on record.

The case of the prosecution is that when L.Ws.1 and 2, who are police personnel, stopped the vehicle having party flags and banner with loud speakers and enquired about the permission letter with the vehicle driver, A.3, who is not the petitioner herein, and on that, A.3 showed the permit of the vehicle to make announcement about the party and he has not shown the permit about the loud speakers. A.3 further stated that he is propagating on behalf of A.1 and A.2. Hence, the charge sheet is filed against A.1 to A.3 for the offences under Sections 171H and 188 IPC.

Learned counsel for the petitioner submits that the petitioner has not committed any offence and that the allegations made against the petitioner do not attract an offence under Sections 171H and 188 IPC. Hence, he prays this Court to quash the proceedings initiated against the petitioner herein.

This Court is of the view that to decide the submission of the learned counsel for the petitioner that the allegations made against the petitioner do not attract an offence under Sections 171H and 188 IPC, it is necessary to extract Sections 171H and 188 IPC, and the same read as under.

171H. Illegal payments in connection with an election.- Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

188. Disobedience to order duly promulgated by public servant.-

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

Shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both:

And if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.- It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

On perusing the above Sections and also on reading the entire material available on record, more specifically the allegations made against the petitioner herein, there is nothing on record to show that the petitioner has committed the offences under Sections 171H and 188 IPC. The allegations made in the complaint do not attract the offences under Sections 171H and 188 IPC. Further, no independent witness is examined on behalf of the prosecution to substantiate that A.1 and A.2 authorized A.3 to make propaganda on behalf of them. Hence, the proceedings initiated against the petitioner herein are liable to be set aside.

The criminal petition is accordingly allowed and the proceedings in C.C.No.718 of 2014 on the file of the Additional Judicial First Class Magistrate, Narsipatnam, Visakhapatnam District, insofar as against the petitioner is concerned, are hereby quashed.

Consequently, miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE RAJA ELANGO

01.04.2016
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