

HON' BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.42382 of 2016

ORDER:

This writ petition is filed seeking to call for the records relating to CC No.469 of 2014 on the file of the VI Additional Chief Metropolitan Magistrate, Hyderabad, and quash the same.

Heard and perused the material available on record.

The case in brief is that on 25.04.2014 while the 4th respondent is performing patrolling duty along with his staff, the petitioners organized a bike rally comprising more than 300 motorcycles, by holding more than one flag on each motorcycle in view of General Elections, and entered into Tappachabutra police station limits. The 4th respondent instructed the petitioners to follow the rules, but they have not obeyed the said instructions. Therefore, the 4th respondent lodged a complaint before the Tappachabutra Police Station, which was registered as Crime No.123 of 2014, for the offence under Section 188 IPC.

Learned counsel for the petitioners submitted that the petitioners are facing trial in the above CC, for the alleged offence under Section 188 IPC, and that the complaint was made for the alleged violation of the conditions of the proceedings of the Sub Divisional Police Officer, by the Sub Inspector of Police and not by the competent authority and hence, he requested to quash the proceedings against the petitioners.

If there is any violation of the order promulgated by the Sub-Divisional Police Officer, within the meaning of Section 188 IPC, the complaint ought to be filed by the SDPO or any other person to whom such SDPO is administratively subordinate and otherwise no Court is competent to take cognizance of such a complaint in accordance with

Section 195(1) (a) of Cr.P.C., and therefore, this Court is of the view that continuation of proceedings against the petitioners in the preset case, are liable to be quashed when the complaint itself has not been legally instituted before the Court.

Accordingly, this writ petition is allowed and the further proceedings against the petitioners in C.C.No. No.469 of 2014 on the file of the VI Additional Chief Metropolitan Magistrate, Hyderabad, are hereby quashed. No order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

December 06, 2016.
KTL

RAJA ELANGO, J

