

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.42705 OF 2016

ORDER:

This writ petition is filed by the petitioners under Article 226 of the Constitution of India seeking to call for the records relating to C.C.No.327 of 2016 on the file of the III-Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District, and quash the proceedings in the above CC against them.

The case of the prosecution is as follows:

On 16.04.2016 at 23.00 hours, on receipt of reliable information about cricket betting at Room No.206 of Hotel Swarna Palace, LW.9 - S.I. of Police obtained search proceedings issued by the Assistant Commissioner of Police, West Zone, Vijayawada, and along with two mediators and staff-L.Ws.1 to 4 rushed to the scene of offence, conducted raid at the above said Hotel room, where the petitioners found watching cricket match in a laptop by keeping one book beside them, by betting with money. The petitioners tried to conceal their presence on seeing the police. L.W.9 arrested the petitioners and seized Rs.1,000/-, Apple company I-phone, Samsung Cell phone, HP intel company laptop and the receipt for room of the Hotel from the possession of 1st petitioner and Rs.300/-, Blackberry cell phone from the possession of the 2nd petitioner and Rs.300/-, Moto-G model cell phone from the 3rd petitioner under cover of the mediators' report. Thus, the accused committed the offence punishable under Sections 3 and 4 of the A.P. Gaming Act.

Learned Counsel for the petitioners submitted that no where it was mentioned in the charge sheet that the petitioners were found

betting in Cricket Match as a game of chance and further the charge sheet does not disclose that the amount was recovered from the possession of the petitioners while they were betting in the prohibited game and that mere seizure of the amount from the petitioners in a Hotel room, does not amount to any offence.

The contentions raised by the learned Counsel for the petitioners can be accepted in view of the fact that there is no material on record to show that the petitioners were found betting in Cricket Match as a game of chance. Further, the amount recovered from the petitioners is also very meagre one. Merely because the amount and the laptop were seized from the room and the petitioners were found watching cricket match at the scene of offence, it cannot be said that they were found betting in the game as a game of chance because that there is also an element of skill in it. In view of the same, this Court is of the opinion that it is a fit case to quash the proceedings against the petitioners in the above crime.

Accordingly, the Writ Petition is allowed quashing the proceedings against the petitioners in C.C.No.327 of 2016 on the file of the III - Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District.

No order as to costs. Miscellaneous Petitions, pending if any, shall stand closed.

RAJA ELANGO, J

December 16, 2016.

KTL