

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CRIMINAL PETITION No.5201 OF 2016**

**ORDER:**

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This petition is filed by the petitioners-accused Nos.1 to 10 under Section 482 Cr.P.C. seeking to quash the proceedings against them in C.C.No.176 of 2013 on the file of the Additional Judicial First Class Magistrate, Palakol, West Godavari District, Andhra Pradesh.

The case of the prosecution is as follows:

On 29.4.2013 prior to 8 p.m., on receipt of unanimous message that gambling betting with money was being organized at Cosmo Club, Palakol, L.W.9-C.I. of Police obtained search proceedings issued by the Sub-Divisional Police Officer, Narsapur. L.W.9 along with mediators-L.Ws.7 and 8 and staff-L.Ws. 1 to 6 rushed to the scene of offence, conducted raid at the place where the petitioners were playing cards by betting with money. The petitioners tried to conceal their presence on seeing the police. L.W.9 arrested the petitioners and seized Rs.6,000/- from the scene of offence i.e., centre of the table, besides 52 playing cards, 15 coins and also Rs.3,800/- from petitioners 2 to 10 i.e., in total Rs.9,800/- under the cover of 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 nowhere it was mentioned in the charge sheet that the petitioners were found playing cards 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 the gaming house, 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 played the game as a game of chance. Further, the amount recovered from 10 persons is also very

meagre one. The material on record also does not disclose that the amount seized from the table belonged to the petitioners. Merely because the amount was seized from the table and the petitioners at the scene of offence, it cannot be said that they played 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 in the above crime.

Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners in C.C.No.176 of 2013 on the file of the Additional Judicial First Class Magistrate, Palakol, West Godavari District, Andhra Pradesh.

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**JUSTICE RAJA ELANGO**

Date : 28.4.2016

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**DATED 28.4.2016**

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