

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.3114 OF 2016

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ORDER:
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This Criminal Petition, under Section 482 Cr.P.C., is filed by the Petitioners – Accused Nos.1, 2, 4, 5, & 6 seeking to quash the proceedings in CC No.909 of 2013 on the file of the Judicial Magistrate of First Class, Miryalaguda.

Heard and perused the material available on record.

The offences alleged against the petitioners are punishable under Sections 188 IPC and 30 of Police Act. The case of the prosecution is that the promulgation orders were issued by the Sub-Divisional Police Officer, Miryalaguda, vide orders, dated 21.09.2012, preventing all rallies in the limits of Miryalaguda with effect from 21.09.2012 to 30.09.2012 till further orders. Contrary to the said order, on 25.09.2012 around 9.00 a.m., the petitioners took a mammoth students rally consisting about 3000 students and other organizations from the streets of Miryalguda. Therefore, the Inspector of Police, Miryalaguda II-Town Police Station, lodged a complaint against the petitioners and on his instructions, the Sub-Inspector of Police, Miryalaguda II Town Police Station, registered a case in Crime No.145 of 2012 for the offences punishable under Sections 188 IPC and 30 of Police Act. After completion of investigation, the Inspector of Police filed charge sheet against petitioners and other accused before the Judicial Magistrate of First Class, Miryalaguda. The learned Magistrate took cognisance of the above said offences against the petitioners and A3.

Heard and perused the material available on record.

Learned counsel for the petitioners submitted that as per Section 195(1)(a)(i) Cr.P.C., no Court shall take cognizance of any offence

punishable under Sections 172 to 188 IPC, except on the complaint in writing of the Public Servant concerned or some other public servant to whom he is administratively subordinate, and in the present case, the promulgated orders were issued by the Sub-Divisional Police Officer, but the complaint was lodged by the Inspector of Police and not by the officer, who is superior to the officer who issued the promulgated orders and charge sheet was also filed by the same officer, therefore, continuation of proceedings against the petitioners is nothing but abuse of process of law.

Section 195 (1)(a)(i) Cr.P.C., reads as under:

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence:-

(1) No Court shall take cognizance--

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1869), or

(ii)

(iii)

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;”

As seen from the record, the promulgated order was passed by the Sub-Divisional Police Officer, Miryalaguda and as per the provisions, the charge sheet should be filed by the person who is superior to the officer who issued the promulgated orders. Therefore, the procedure followed in the present case is not in accordance with law and hence, continuation of proceedings against the petitioners in CC No.909 of 2013 amounts to abuse of process of law and therefore, the same are liable to quashed.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioners – Accused Nos.1, 2, 4, 5 and 6 in CC No.909 of 2013 on the file of the Judicial Magistrate of First Class, Miryalaguda are hereby quashed. Miscellaneous petitions filed in this Criminal Petition, if any, shall stand closed.

March 10, 2016.
KTL

RAJA ELANGO, J