

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.14501 OF 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.200 of 2016 on the file of XVII Additional Chief Metropolitan Magistrate, Hyderabad for the offences punishable under Sections 447, 353 and 283 of I.P.C. on the ground that petitioners are licenced vendors having obtained licence from concerned authorities including Municipality and other departments and kept their articles in front of is shop but did not encroach whereas the record shows that petitioners are footpath vendors kept Tea Point fabricated with tin sheet and other furniture by the side of road.

While removing the encroachments on the road, L.W.1-S.I. of Police reached the scene of offence along with his staff and found the articles referred above by the side of the road and as by, they encroached road.

It is the case of petitioners that the facts are not attracting the offences punishable under Section 447 of I.P.C.

Section 441 of I.P.C. is defined criminal trespass as follows:

“Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass”.

In the present facts of the case, the investigation disclose that the petitioners along with few others obstructed the police from removal at Tea Point fabricated tin sheet, that itself would attract the offence punishable under Section 447 of I.P.C. and that would fall under criminal trespass. Therefore, on perusal of allegations made in the charge sheet, I find no grounds to quash the proceedings at this stage in C.C.No.200 of 2016 on the file of XVII Additional Chief Metropolitan Magistrate, Hyderabad, and the defence set up by petitioners has to be considered by trial court only during trial but not at this stage and it cannot be decided while deciding petition under Section 482 of Cr.P.C.

Jurisdiction of this court under Section 482 Cr.P.C. can be used sparingly and Supreme Court in *INDIAN OIL CORPN. v. NEPC INDIA LTD., AND OTEHRS*⁽¹⁾.

It is clear that as per law declared by the apex court, the inherent powers under Section 482 Cr.P.C. cannot be invoked in routine manner in circumstances.

In the present case, investigation is over and charge sheet is filed. In view of specific alleged obstruction of L.Ws.1 to 3 i.e., S.I. and others from discharging their duties while removing the encroachment on the road by the petitioners, that itself would attract Part 2 of Section 447 of I.P.C. Prima facie I find no ground to invoke inherent powers under Section 482 of Cr.P.C.

¹ (2006) 6 SCC 736

Accordingly, this Criminal Petition is dismissed. However, it is left open to the petitioners to raise any defence legally permissible before trial court and on such defence and other circumstances raised by the petitioners, the trial court is permitted to decide the matter in accordance with law.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 17-10-2016.

Dvs.



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Dvs