

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO. 13807 OF 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C to quash the proceedings in CC No. 106 of 2016 on the file of Judicial Magistrate of First Class, Nandikotkur, Kurnool District for the offence under Section 188 IPC. On the ground that the complainant is incompetent to lodge the complaint, counsel for the petitioner drawn the attention of the Court to the judgment of the Court in Criminal Petition No. 15168 of 2016 dated 26.10.2016 where the identical question came up before this Court.

The allegation made against the petitioner is that the petitioner distributed pensionary benefits to old age eligible pensioners during promulgation of order by the Collector.

Section 188 of IPC deals with disobedience to order duly promulgated by public servant and according to it knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of

obstruction, annoyance or injury, to any persons lawfully, employed, be punished with simple imprisonment for term which may extend to one month, or with fine which may extend to two hundred rupees.

But the petitioner is not competent to lodge the complaint in view of the judgment of this Court in *Tummala Rama Brahmam & Ram and Another v. The State of Andhra Pradesh represented by the Public Prosecution and another*¹, *S. Purnachandra Rao and another v. State of Andhra Pradesh and another*² *Jasti Jayalaxmi vs. State of Andhra Pradesh and another*³ and unreported judgment of this Court in Crl.P.No. 5323 of 2009 (*N.T. Rama Rao vs. the State of A.P., represented by Public Prosecutor and another*).

Learned Public Prosecutor and learned counsel appearing for petitioner fairly conceded that the question raised in this Criminal Petition is squarely covered by the judgment of this Court in Criminal Petition No. 15168 of 2016, requested to dispose of in terms of the Writ Petition No. 15168 of 2016 following the principle laid down in the judgment. In terms thereof, this Criminal Petition is allowed and the proceedings in CC No. 106 of 2016 on the file of Judicial Magistrate of First Class, Nandikotkur, Kurnool District, are quashed in terms of the judgment of this Court in Criminal Petition No. 15168 of 2016.

¹ 2015 SCC Online Hyd 358

² 2014 (2) ALD (Crl) 674

³ 2014 (2) ALD (CRL) 682

As a sequel thereto, miscellaneous petitions, pending if any,
shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Date: 09.12.2016
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