

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.5235 OF 2012

ORDER:

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This petition is preferred by A.1 to quash the proceedings in C.C.No.256 of 2009, pending on the file of Judicial Magistrate of First Class, Nandyal, Kurnool District registered for the offences under Sections 143, 188, 341 read with 149 IPC.

Heard.

The allegation against the petitioner and other accused are of conducting a road show and public meetings disobeying the orders of the SDPO, Nandyal causing obstruction to the general public and free flow of traffic on the state highway on 19.2.2009.

As far as offence under Section 188 IPC is concerned, Section 195 (1) (a) Cr.P.C. mandates that no Court shall take cognizance of the offence under Section 188 IPC except on the complaint in writing by the public servant who promulgated the order or a person to whom such a public servant is administratively subordinate. Admittedly, in the present case, no complaint was filed by the person who promulgated the order under Section 30 of the Police Act, 1861. Thus, the charge sheet filed in the present case is in violation of the mandatory provision under Section 195 (1) (a) Cr.P.C. Hence, this Court is of the view that in view of the bar to prefer a complaint by a competent person, the proceedings initiated by the Sub-Inspector of Police are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings in C.C.No.256 of 2009 pending on the file of the Judicial Magistrate of First Class, Nandyal are hereby quashed against the petitioner herein.

Pending Miscellaneous petitions, if any, shall stand closed.

JUSTICE RAJA ELANGO

08.08.2016

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