

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.5180 of 2014

ORDER:

The criminal petition is filed under Section 482 Cr.P.C. to quash the proceedings in C.C.No.113 of 2009 on the file of the Additional Judicial First Class Magistrate, Chodavaram, Visakhapatnam, registered for the offences punishable under section 188 IPC and under section 32 of Police Act, 1861.

The allegation against the petitioner/A2 and other accused is that on 02.04.2009 between 1.30 p.m. to 2.30 p.m they conducted public meeting at Sugarcane Center at Thattabandha on behalf of a political party without obtaining any permission from the election authority and police.

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

As far as offence punishable 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. In this case, the present complaint is filed by the Returning Officer, No.145 Chodavaram Assembly Constituency. Admittedly, he is not the person, who promulgated the prohibitory order. Hence the proceedings are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings pending against the petitioner/A2 in C.C.No.113 of 2009 on the file of the Additional Judicial First Class Magistrate, Chodavaram, Visakhapatnam, are hereby quashed.

Pending miscellaneous applications, if any, shall stand closed

in consequence.

Date: 09.06.2016
Dsr

M.S.K.JAISWAL,J