

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.2053 of 2016

-

ORDER:

-

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioner seeking to quash the proceedings in C.C.No.268 of 2009 on the file of the Judicial Magistrate of First Class, Nandyal, Kurnool District.

Heard the learned counsel for the petitioner/accused No.6 and the learned Public Prosecutor and perused the material available on record.

The petitioner is accused No.6 in C.C.No.268 of 2009 on the file of the Judicial Magistrate of First Class, Nandyal, Kurnool District, wherein the learned Magistrate has taken cognizance for the offences punishable under Sections 143, 149, 188 and 341 of I.P.C. The same is outcome of Crime No.30 of 2009 of Nandyal I Town Police Station. The police, after investigation, filed the final report. It is impugning the said cognizance taken by the learned Magistrate, the present quash petition is filed by showing the State represented by the Public Prosecutor as respondent.

The main contentions are that there is no wrongful restraint as defined in Section 339 I.P.C. to attract the offence punishable under Section 341 I.P.C. even from the say that even after permission accorded for the procession, after expiry of time the petitioners did not continue the procession and no

person was examined among the list of witnesses to the police final report covered by L.Ws.1 to 10 to say that the public thoroughfare was obstructed by virtue of that procession much less voluntary by any of the accused. In the absence of which, when it does not satisfy the ingredients of Section 339 I.P.C. to attract the offence under Section 341 I.P.C., there is no material to take cognizance for that by the learned Magistrate. Coming to the other Section 188 I.P.C., there is a bar under Section 195, Sub-Clause-1, Clause-A, Sub-Clause-(i) of Cr.P.C. for the police to register a crime or for the Magistrate to take cognizance but for to maintain a private complaint.

Having regard to the above, the Criminal Petition is allowed and the proceedings in C.C.No.268 of 2009 on the file of the Judicial Magistrate of First Class, Nandyal, Kurnool District are quashed.

Even though the other accused are not before this Court, the same is applicable to the other persons also, since the allegations are one and the same against the petitioner and other accused.

Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand dismissed.

RAJA ELANGO, J.

19-02-2016

skmr

