

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.42475 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue a Writ or Order or Directions more particularly one in the nature of Writ of Mandamus Under Article 226 of the Constitution of India declaring the initiation of FIR No.195/2016 dt: 21.10.2016 on the file of the Medikonduru PS, Guntur Urban District, against the petitioner, on the false complaint lodged by the 4th respondent before the 2nd respondent herein, even knowledge about that the 4th respondent or the 2nd respondent have no power to deal with the matter as it relates to Seeds Act 1966, consequential investigation by the Police are sought to be mainly on the ground that none of the complaint averments disclose cognizable offence so as to empower the Police to investigate into the matter. The complaint of the 4th respondent do not disclose any specific offence either under any of the provisions of Indian Penal Code or under the provisions of the Seeds Act, failure to adhere, well considered judgment of the Hon'ble Apex Court in respect of investigation in such cases. That apart, sec. 155(2) of Criminal Procedure Code specifically provides that the Police authorities cannot investigate in the matter when the same is non cognizable, without having any competency to register crime and conducting investigation against the petitioner by the 2nd respondent, virtually amounts to violative of Articles 14, 19 (1) (g), 21 and 300-A of the Constitution of India, apart from violative of well settled principles of natural justice as illegal, arbitrary, unconstitutional, colourable exercise of powers, curtailment of individual liberty and set aside the same, consequently direct the 3rd respondent to release Yallam Raju Ramaprasad Raju, in connection with crime No.195/2016 dt:21.10.2016 on the file of the Medikonduru PS, Guntur Urban District, and pass such other order or orders may deem fit and proper in the circumstances of the case.”

2. Heard and perused the material available on record.

3. Case of the petitioner is that respondent No.4 filed a false complaint against him before respondent No.2 and the same was registered as Crime No.195 of 2016 on the file of Medikonduru Police Station, Guntur Urban, Guntur District for the offences punishable under Sections 420 and 120-B I.P.C. and Sections 6, 7 and 19 of the Seeds Act, 1966; that the complaint does not contain any incriminating material; that he never did any criminal activities and hence, prays to set aside the proceedings in the said crime.

4. Learned counsel for the petitioner submitted that so many cases were registered against the petitioner for the same set of facts and in one of the cases i.e., Crime No.153 of 2016 on the file of Tadikonda Police Station, Guntur Urban, Guntur, he was granted bail, but under the guise of P.T. warrant issued in the present crime, he was continued to be detained by respondent No.3 and hence, prays to suspend the operation of the P.T. warrant and set aside the proceedings in the present crime.

5. Learned Assistant Government Pleader for Home submitted that on the basis of the said complaint, the aforementioned case was registered against the petitioner and respondent No.2 is investigating the matter in accordance with law; that as several cases were registered against the petitioner/A-1 under Section 420 I.P.C. and Sections 19 and 20 of the Seeds Act, P.T. warrant was issued in favour of the petitioner.

6. Since the petitioner was already arrested in one case, there is no necessity of producing him in another case as the allegations in all the cases are one and the same. Hence, the execution of the

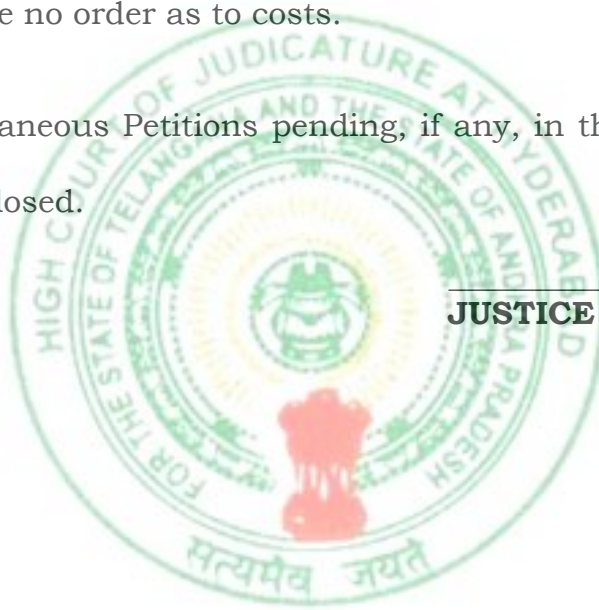
P.T. warrant against the petitioner is hereby suspended. Considering the facts and circumstances of the case and the grievance of the petitioner and in view of the fact that the petitioner is ready to cooperate with the investigation, without expressing any opinion on merits, respondent No.2 is hereby directed to complete the investigation in the aforementioned crime and file a final report, in accordance with law in either way, without arresting the petitioner.

7. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

7.12.2016
AMD

JUSTICE RAJA ELANGO



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Date: 7.12.2016

AMD