

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.44698 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking a writ of certiorari to call for the records in connection with C.C.No.244 of 2015 on the file of Additional Junior Civil Judge, Mangalagiri and to declare the said proceedings against the petitioners as illegal and against Section 195(1)(a) of Cr.P.C. and to quash the same.

The allegation as against the petitioners is that on 25.3.2014 all the petitioners along with some others conducted procession by engaging cars and open top jeeps, motor bikes without obtaining any permission and the same is in violation of election model code.

Heard and perused the material available on record.

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. The present charge sheet has been filed by the Sub-Inspector of Police, who is not the person promulgated the order under Section 30 of the Police Act, 1861. Thus, the charge sheet filed in C.C.No.244 of 2015 is in violation of the mandatory provision under Section 195(1)(a) Cr.P.C. Hence, the proceedings in C.C.No.244 of 2015 as against the petitioners are liable to be quashed.

Accordingly, the writ petition is allowed and the proceedings in C.C.No.244 of 2015 pending on the file of Additional Junior Civil Judge, Mangalagiri are hereby quashed as against the petitioners. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

21.12.2016.
Tsr



