

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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CRIMINAL PETITION No.4785 of 2016

ORDER:

This Criminal Petition is filed by the petitioner under Section 482 Cr.P.C., seeking to quash the proceedings against him in CC No.316 of 2015 on the file of Judicial Magistrate of First Class, Palamaner, Chittoor District.

Heard and perused the material available on record.

The petitioner, along with the other accused, alleged to have committed the offences punishable under Sections 447, 379 and 427 IPC and 21(4) and 4(a) of M.M. Act and 35 of A.P. WALTA Act. The petitioner, along with A2, is alleged to have criminally trespassed into the tank situated near Lakkanapalli village, illegally transported the sand by damaging the tank and dumped about 150 tractors load of sand in the land bearing Survey No.141/1,2,3 belonging to P.Rajagopal Chetty, for transporting the same to Karnataka State for sale at higher price.

Learned counsel for the petitioner submitted that after registration of the case, the Judicial Magistrate of First Class, Palamaner, directed the Tahsildar, Baireddipalle, to dispose of the property seized, through auction, that after disposal of the same, the Tahsildar filed a report before the learned Magistrate informing that the case property is not the pure raw sand and it was mud and the same was disposed of by way of auction vide letter dated, 17.10.2015. The main contention raised by the learned counsel for the petitioner is that if the seized property is not the raw sand and it is mud as per the opinion of the Tahsildar, then the offence under Section 21(4) of the Mines and Minerals Act does not attract to the petitioner and thereby, the other offences are also not attracted.

After perusing the entire material and after hearing the arguments of the learned counsel for the petitioner, this Court is

of the view that the learned Magistrate has directed the Tahsildar to auction the property only. Therefore, it is not the duty of the said Tahsildar to inform the Court whether the property is sand or mud and he was not asked by the Court to give any opinion about the property. As rightly pointed out by the learned Public Prosecutor the Mines and Minerals authorities will decide whether the property seized is mud or sand, but not by the Tahsildar. The Tahsildar is not an expert to decide the nature of property. Hence, this Court is of the view that basing on the report filed by the Tahsildar stating that the property seized by the police is mud and not the sand, who is not an authorized person to decide the nature of the property, the proceedings against the petitioner cannot be quashed. Hence, this Court is not inclined to interfere with the proceedings against the petitioner.

Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

April 07, 2016.
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