

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL PETITION No.7612 of 2011

ORDER:

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

The present petition is filed by the petitioner to quash the proceedings initiated against him in Crime No.81 of 2011 of Police Station Madgul, Mahabubnagar District for the offence under Section 379 IPC.

The brief facts of the case are that on 17.08.2011 the police constable by name, Balakishan, Nayak, PC 1672 of Madgul Police Station submitted a petition stating that as per the instructions of HC 1471 of the said police station when he along with HG 792 were returning after completing the patrolling duty at Irvin stream they found the driver of the tractor and trolley bearing Nos.AP 22F 9655 and AP 22F 9656 respectively was illegally transporting the sand from Irvin streamlet. On sensing that some illegal activity is going on, when they wanted to verify, on seeing them, the driver ran away from the place abandoning the sand loaded tractor and trolley. Thereafter, they shifted the loaded tractor to police station with the help of another driver and lodged the present complaint. Subsequent to the said complaint, Crime No.81 of 2011 is registered by Police Station, Madgul, for the offence

under Section 379 IPC. Aggrieved by the same, the present petition is filed.

Learned counsel for the petitioner would submit that the petitioner obtained permission on 16.08.2011 from the Tahsildar, Madgul Revenue Mandal and the same was valid from 16.08.2011 to 17.08.2011 till 6.00 p.m. Therefore, the petitioner was transporting the sand on 17.08.2011 at 1.30 p.m. legally. When the vehicle was stopped by the constables on the ground that he was carrying the sand illegally, he produced the documents vide permission letter and R.C. book and as such he has been falsely implicated and that it is a politically motivated one and sought to quash the proceedings.

A perusal of the complaint, averments made in the petition and the material enclosed to the petition, reveal that the petitioner obtained the sand transporting permission, dated 16.08.2011, which is valid between 16.08.2011 and 17.08.2011 for the vehicle bearing No.AP 22F 9655. In the said permission, the timing mentioned is from 6.00 a.m. to 6.00 p.m. and that the same is for one trip, as such, the petitioner is entitled to transport the sand. However, whether the said transport permission filed along with the material papers is correct or not and whether transporting the sand is only for one trip or not are the questions which cannot be decided by this Court exercising its jurisdiction under Section

482 Cr.P.C. Since the crime is at the investigation stage, this Court cannot invoke its jurisdiction under Section 482 Cr.P.C. for the purpose of quashing the proceedings, as the above said aspects cannot be decided by this Court.

In the above circumstances, this Court feels that there are no merits in the petition and the same is liable to be dismissed.

Accordingly, the criminal petition is dismissed. However, it is observed that if the presence of the petitioner is required during the course of investigation, the investigating officer can invoke the provisions of Section 41A Cr.P.C. as per law. Interim order, if any, stands vacated. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 29.12.2017.
ES