

THE HON'BLE SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.711 of 2017

JUDGMENT:

This petition is filed seeking to quash the proceedings in STC.No.38 of 2016 on the file of XV Metropolitan Magistrate at Medchal, Ranga Reddy District.

2. Heard both the counsel and they are agree to dispose of the matter at the admission stage.

3. The counsel for the petitioner contends that there is violation of the statutory provisions under the Telangana Fire Service Act, 1999 (for short, the Act) for an offence under which, the prosecution is initiated against the petitioner. He has drawn the attention of this Court to Section 21 of the Act, which requires a notice to be issued on the owner of the premises, where violations are found under the Act, after the inspection of the premises is conducted, calling upon the owner, or the occupier of the premises, to undertake measures to rectify the mistakes within a time specified in the said notice.

5. Section 41 of the Act permits the prosecution to be launched against the owner or occupier of the premises, only, if there is a contravention of any of the provisions of the Act and if there is failure to comply with any requisition lawfully made upon them under any provisions of this Act. Hence, unless there is notice issued to the owner or occupier of the premises, there cannot be any prosecution initiated against them.

6. The petitioner's counsel also contends that there was no notice issued even prior to the inspection, as required under Rule 25 of the A.P Fire and Emergency Operations and Levy of Fee Rules 2006.

The above rule requires a notice to be given prior to the inspection that is made by the authorized officer. Hence there is absolute violation of the provisions of the Act and there is no cause of action that has arisen for the prosecution to be launched against the petitioner and hence the proceedings in STC.No.38 of 2016 on the file of XV Metropolitan Magistrate at Medchal, Ranga Reddy District, cannot be continued and hence they are quashed.

4. In the result, the Criminal Petition is allowed.

5. As a sequel miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Date: 25.10.2017
mrb



JUSTICE T. RAJANI