

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.69 OF 2017

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings in Crime No.23 of 2015 on the file of II Town C.C.S, Kakinada passed by the II Additional Judicial First Class Magistrate, Kakinada, directing the petitioners herein and others to undergo polygraph test.

The prosecution/Inspector of Police, C.I.D. Regional Office, Rajahmundry, filed petition before the II Additional Judicial First Class Magistrate, Kakinada, requesting the Court to permit the police to conduct lie detector and brain mapping tests, directing refer the respondents therein to undergo the said tests, to elicit truth in the case. The same is opposed by the respondents and they have not given consent to undergo polygraph test. But, the Trial Court ordered for polygraph test to the respondents therein based on **Selvi v. State of Karnataka**¹, wherein the Supreme Court specifically held that a person cannot be ordered to undergo polygraph test while in custody or not in custody or during crime stage or pre-registration stage of calendar case against the consent of the person who is required to undergo polygraph test, since it is a violation of fundamental right under Article 20(3) of Constitution of India.

In the present case, the Magistrate did not consider the purport of the judgment in **Selvi**¹ case. Further, referring the petitioners herein for polygraph test amounts to testimonial

¹ (2010) 7 Supreme Court Cases 263

compulsion, in violation of fundamental right guaranteed under Constitution of India. Therefore, by non-application of mind, the Magistrate ordered polygraph test to the petitioners herein. On the other hand, the conclusions arrived by the Trial Court are contrary to law declared by the Apex Court in **Selvi** case.

In view of my foregoing observation, I am of the considered view that, though the petitioners herein are suspects, they cannot be compelled to undergo polygraph and brainmapping tests. However, the petitioners herein are directed to appear before the concerned Investigating Authority and cooperate with them for completion of the investigation, as and when requisitioned by the Investigating Authority.

With the above direction, this criminal petition is disposed of.

Consequently, miscellaneous applications pending if any shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:05.01.2017

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