

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.42236 of 2016

ORDER:

1. This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of respondents Nos.4 & 5 in implicating the petitioner in a case in Crime No.76 of 2016, dated 19.11.2016 of Chinturu Police Station, East Godavari District, as illegal and arbitrary, and consequently, to direct respondents Nos.4 & 5 to delete the name of the petitioner as an accused in the above crime.

2. The case of the petitioner is that the petitioner joined in the Service of Andhra Pradesh Police on 02.08.2004 as Sub-Inspector and he was promoted as Circle Inspector in the year 2014 and that the petitioner took charge of Marredumilli Police Circle on 03.04.2016 and since then, he worked with dedication and discipline and he also worked with the people in building harmonious society in the tribal area of Marredumilli.

3. It is the case of the prosecution that the 4th respondent conducted a raid and trapped the other accused in the above crime while they were transporting ganja in a lorry, and seized a quantity of 2125.300 kgs of Ganja, and that in the confessional statements recorded before a Forest Officer, who acted as a Gazetted Officer, A-2 and A-3 stated that they approached the petitioner for co-operating with them in allowing the vehicle to pass, for which they paid Rs.2,00,000/- and again after Diwali Festival, they paid Rs.1,50,000/- to the petitioner and in spite of receiving the said amount, the petitioner has not given any signal to them to transport the lorry of ganja, Therefore, they loaded the vehicle and decided to move on 18.11.2016, and while they were moving out of forest,

they were arrested by the 4th respondent on 19.11.2016 at 10.00 a.m. and the 4th respondent registered a case in Crime No.76 of 2016 on 19.11.2016 of Chinturu Police Station for the offences under Sections 8(c) read with 20(b)(ii)(c) of NDPS Act and Section 120-B IPC against six accused. Basing on the confessional statements of A-2 and A-3, respondents Nos.4 & 5 have shown the petitioner as A-7 in the above said crime.

4. Learned Counsel for the petitioner submitted that even according to the confessional statements of A-2 and A-3, there is no iota of evidence to show that the petitioner had any role to play on the day the accused decided to transport Ganja. The learned Counsel further submitted that the respondents instigated the accused to include the name the petitioner and that few department officials are also trying to blemish the reputation of the petitioner by dragging the petitioner into some or other disputes. He further submitted that the petitioner has not committed any offence as alleged.

5. The learned Government Pleader for Home filed written instructions before this Court. According to him, previously, 3 major PRs and 6 Minor P.Rs were initiated against the petitioner on the allegations made against him and he violated Rule 3 of APCs (CCA) Conduct Rules, 1964 and he was awarded with censure and he was also warned in several cases. He also filed a list of cases in which, the allegations were made against the petitioner.

6. Perused the material available on record.

7. It is the case of the petitioner that even according to the confessional statement of A2 and A3, it is evident that the petitioner has not played any role on the date of commission of the offence and that the confessional

statement made before the police is not admissible, whereas it is the case of the respondents that the petitioner had contacts with the accused in connection with the present crime through phone and that the investigation is still pending and that the fact as to whether the petitioner played any role as confessed by the A2 and A3, is to be investigated into.

8. In the present case, the investigation is still pending. The question of admissibility or non-admissibility of the confessional statement of the accused cannot be looked into at this stage of investigation. The other aspects raised by either of the parties are the facts to be investigated into. Therefore, this Court is not inclined to interfere with the proceedings in the above crime by exercising the jurisdiction under Article 226 of the Constitution of India.

9. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dated: 22.06.2017
Nn.

Justice Raja Elango

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