

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 42424 OF 2016.

ORDER:

Heard learned Counsel for the petitioner and learned Government Pleader appearing for the respondents.

It is the case of petitioner that the police inspected the house of one N.Nageswararao and found 2000 bags adulterated chilly powder each bag weighing 45 to 50 Kgs. A mediators report was prepared and the said N.Nageswararao was arrested and remanded to custody. In the custody, he confessed that the chilly powder was mixed with some other material in order to get huge profits. A case in crime No. 548 of 2016 was registered and the petitioner was arrayed as Accused No.2 in the said crime. The petitioner states that he is not at all concerned with the first accused and the police did not follow the mandatory requirement as contemplated under the provisions of Prevention of Food Adulteration Act, 1954. In view thereof, assailing the action of fourth respondent in registering crime No.548 of 2016, dated 01.12.2016, the present Writ Petition was filed.

This Court by order dated 06.12.2016 while ordering notice granted interim direction directing the respondents not to arrest the petitioner. The said interim order was extended from time to time.

In the counter affidavit filed by the fourth respondent it is stated that on 1.12.2016 at 15.30 hours, one Sri B.Sambasiva Rao Nail, Assistant Sub Inspector of Nallapadu Police Station received credible information about sale of noxious chilli powder and accordingly after obtaining permission from the authorities, he conducted raid on the house of one Mr. Neelisetti Nageswararao, S/o Chenna Kesava Rao and found 2000 plastic bags of noxious chilli powder in his possession each bag weighing 45 to 50 Kgs. In the presence of mediators, a panchanama was conducted and seized the chilli powder bags. Thereafter a case in Crime No. 348 of 2016 for the offences punishable under Sections 272, 273 and 420 IPC was registered. The said N.Nageswara Rao was arrested and remanded to judicial custody on 1.12.2016. He confessed to have committed the offence. He stated that as per the advise of his friend (petitioner herein), who was the owner of Kanaka Durga Industries, he and his friend decided to carry on noxious chilli powder business to get huge profits. He has also stated with regard to sale of chilli powder. Thus involvement of the petitioner in the aforesaid crime is established. It is further stated that investigation was conducted in accordance with law.

Since there is prima facie case for initiation of criminal proceedings, it cannot be said that registration of crime against the petitioner who is arrayed as Accused No.2 is bad in law and therefore, this Court cannot interdict the investigation. Thus it is not one of rare cases where this Court can exercise its jurisdiction under Article 226 of the Constitution of India.

The Writ Petition is therefore dismissed. Miscellaneous petitions pending consideration if any in the Writ Petitions shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 1ST FEBRUARY, 2017.

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