

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1800 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), is filed by the accused viz., Abdul Rafe Khan, requesting to quash the Crime Occurrence Report No.59 of 2017 on the file of Additional Judicial Magistrate of First Class (Prohibition and Excise Offices), Nirmal, Nirmal District, arising out of PR No.386 of 2016, dated 05.12.2016, of Nirmal Excise Police Station, Nirmal District.

2. The offence alleged against the petitioner is under Section 34(e) of Andhra Pradesh Excise Act, 1968.

3. Heard Sri Praveen Kumar Veerjala, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana.

4. The main submission of the learned counsel for the petitioner is that the entire seizure proceedings conducted by the Prohibition and Excise officials have been video-graphed and no black jaggery was seized and even that has been the reason why, the petitioner has not subscribed his signature on the seizure panchanama.

5. The aforesaid allegation was refuted by the learned Additional Public Prosecutor contending that the Crime Occurrence

Report would clearly show the seizure of 300 Kilograms of black jaggery, 4,500 Kilograms of jaggery in 450 lumps, each lump weighing 10 Kilograms, 4,200 Kilograms of white jaggery and 20 Kilograms of *alum* and when there is a specific mention about the same under vertical column '10' of Crime Occurrence Report, the mere fact that the petitioner has not subscribed his signature on the seizure panchanama is of no avail at this stage.

6. Now, the only question, whether the 300 Kilograms of black jaggery said to have seized from the possession of the petitioner is being used for legal purpose or not, can only be decided after completion of the investigation, and, therefore, the investigation cannot be quashed.

7. The learned counsel for the petitioner has even pointed the order passed by this Court in W.P.M.P. No.6491 of 2017 in W.P. No.5344 of 2017, whereby and whereunder, it is recorded that there shall be interim direction as prayed for; the said prayer reads thus:

“Petition under Section 151 of C.P.C. praying that in the circumstances stated in the affidavit filed in the W.P. the High Court may be pleased to direct the Respondents not to take any coercive steps against the petitioner without following due process of law, pending disposal of WP No.5344 of 2017 on the file of the High Court.”

Thus, the prayer indicates that the respondents therein i.e., (1) the State of Telangana, represented by the Principal Secretary, Revenue (Excise) Department, (2) the Deputy Commissioner, Prohibition and Excise, Nirmal Division, and (3) the Station House Officer, Nirmal Prohibition and Excise Police Station, Nirmal District, are directed not to take any coercive steps against the petitioner therein without following due process of law pending disposal of the writ petition (W.P. No.5344 of 2017). Since such a direction was already granted in the writ proceedings, it binds the respondents, more particularly, the respondents herein.

8. With the above observations, the Criminal Petition is dismissed at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

March 7, 2017.

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