

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.871 of 2017

ORDER:

This criminal petition is filed by the petitioners/A-1 & A-2, under Section 482 of Cr.P.C. seeking for quash of the proceedings in C.C.No.29 of 2016, on the file of the learned Judicial Magistrate of First Class, at Alampur, on the grounds that there are no elements of cheating under Section 420 IPC made out and the charge sheet does not show the basis on which the Investigating Agency came to a conclusion that it is PDS rice.

2. Heard learned counsel for the petitioners and learned Public Prosecutor and with their consent, the criminal petition is disposed of at the admission stage. Perused the record.

3. A perusal of the charge sheet would show that there was nevertheless an allegation that PDS rice was being transported. Hence, whether the rice is PDS rice or not is an aspect, which has to be decided after taking in full evidence. Whether the allegations amount to cheating or not, also has to be decided after full trial. Cheating is an element of intention, which has to be gathered from the circumstances put forth by the prosecution. Hence, at this stage, this Court does not find any special reasons to exercise the inherent powers under Section 482 Cr.P.C. The petitioner can however file a discharge petition before the Court below and raise all the pleas taken in this petition.

4. With the above observations, the Criminal Petition is disposed of. However, the contention of the learned counsel for the petitioners that the 2nd petitioner is old aged and he is facing difficulty to attend the Court for all the adjournments can be taken care of by directing the Court below not to insist upon the presence of the 2nd petitioner unless

it is required for the proceedings of the case till the discharge petition is disposed of.

As a sequel, the miscellaneous applications, if any pending, in the criminal petition shall stand closed.

JUSTICE T. RAJANI

Date: 12th October, 2017

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