

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7475 of 2017

ORDER:

Heard learned counsel for the petitioner of Crime No.25 of 2017 on the file of the Thottambedu Police Station, Tirupathi Urban, Chittoor District, registered for the offences punishable under Sections 379, 109 IPC and 21(1)(4) of Mines, Minerals (Development and Regulation) Act, 1957(for short 'the Act'), and learned Public Prosecutor representing the State and perused the grounds urged in the quash petition and the contents of the F.I.R. and G.O.Ms.No.42 dated 29.03.2016 issued by the Government of Andhra Pradesh, Industries and Commerce (Mines-II) Department.

So far as the sustainability of the accusation from the allegation of taking of sand on the vehicle of the petitioner is in contravention of the said G.O. concerned, at best, it attracts the offence under Section 379 r/w 109 I.P.C. and for the police to register a crime, there is a package so far as the provisions of the Act concerned as also held by the Apex Court in State (NCT of Delhi) -vs- Sanjay¹.

Having regard to the above, the Criminal Petition is allowed in part quashing the F.I.R. for the offence under Section 21(1)(4) of Mines, Minerals (Development and Regulation) Act, by dismissing the petition for nothing to interdict the investigation so far as the offence under Section 379 r/w 109 I.P.C. concerned, as any

¹ (2014) 9 SCC 772

observation is pre-judge the same pending investigation, which requires to go on and in the event of any necessity of arrest of the petitioner, they have to follow Section 41-A Cr.P.C. and the guidelines of the Apex Court as laid down in Arnesh Kumar v. State of Bihar², strictly. All the defences of the accused are left open.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 05.09.2017
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² (2014 (2) ALT (CrI.) 457 SC)