

SMT. JUSTICE T.RAJANI

Criminal Petition No.851 of 2017

ORDER:

This criminal petition is filed seeking for quash of proceedings in C.C. No.303 of 2016 on the file of the Judicial Magistrate of First Class, Adoni, Kurnool.

Heard the learned counsel for the petitioners and the learned Public Prosecutor and with their consent, the criminal petition is disposed of at the threshold.

The learned counsel for the petitioners contends that the accused are returning from the temple and they cannot be said to have committed any offence within the meaning of Section 188 of IPC.

A perusal of the complaint shows that all the accused were going in a procession and according to the complaint they were raising slogans and when they were asked to show permission they could not produce any permission and they informed that they were going to a temple.

The learned counsel for the petitioners placed reliance on a ruling of the High Court of Calcutta reported in the case of **HABIBAR RAHAMAN Vs. JAGANNATH MONDAL AND OTHERS**¹ and he also relied in **PRADIP CHOWDHURY Vs. THE STATE**². But the said rulings cannot help the petitioners as they were rendered after the trial. The ruling reported in the case of **BHOOP SINGH TYAGI Vs. STATE**³ is however, rendered in a quash petition, wherein it was observed that the disobedience of order promulgated by public servant cannot be held as committing offence when accused is not imputed with the knowledge of the order. Averments of the complaint would show that when they were asked whether they had any permission they stated that they did not

¹ 1982 C.R.I.L.J. 1652

² AIR 1960 ASSAM 20

³ 2002 C.R.I.L.J.2872

have any permission but they did not plead ignorance about the existence of the order. Hence, at this stage, it cannot be concluded that the petitioners did not have knowledge about the order hence it is not advisable to quash the proceedings. The petitioners can file a discharge petition and raise all the pleas that were raised herein before the Court below. However, considering the submissions made by the learned counsel for the petitioners that the petitioners are the residents of Adoni and they have to come all the way from there, the presence of the accused is dispensed with till disposal of the discharge petition and the Court below shall not insist upon the presence of the petitioners unless it is required for the proceedings of the case.

With the above observations, the criminal petition is disposed of. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

Date: 13.10.2017
LSK



JUSTICE T. RAJANI