

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.8798 OF 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.180 of 2015 on the file of the Judicial Magistrate of First Class, Adoni, Kurnool District for the offence punishable under Section 188 of IPC on the sole ground that the learned Magistrate has no power to take cognizance of the offence punishable under Section 188 of IPC in view of specific interdict contained in Section 195(1)(a) of Cr.P.C.

The case of the prosecution is that the Asst. Superintendent of Police, Adoni promulgated notification under Section 30 of Police Act in Adoni Town due to the incident occurred on 23.02.2013 between 7.30 p.m. to 8.30 p.m. wherein the accused Nos.1 to 5 raised slogans against bomb-blast taken place at Dilsukhnagar, Hyderabad as "Pakistan Down Down" and at Bheemas Junction, the petitioners/accused disobeyed the order of Section 30 of Police Act and after completion of investigation filed charge sheet against the petitioners for the offence punishable under Section 188 of IPC.

The main grievance of the learned counsel for the petitioners is that the learned Magistrate is not competent to take cognizance of the offence punishable under Section 188 of IPC. In view of specific contention, it is relevant to advert to Section 195(1)(a) of Cr.P.C. which debar the magistrate to take cognizance of any offence punishable under Sections 172 to 188 IPC, unless there is a complaint from the public officer or subordinate to him. But, here the Asst. Sub-Inspector of Police, II Town Police Station reported the matter to Adoni II Town Police Station and on the strength of the same, a crime was registered in Crime No.40 of

2013 on the file of Police Station II Town, Adoni and after completion of investigation filed charge sheet. But, the offence is not cognizable and taking cognizance by the magistrate is bar under Section 195(1)(a) of Cr.P.C. In an identical situation, this Court on the basis of judgment reported in DR.KODELA SIVA PRASAD RAO AND OTHERS v. KORITALA VENKATA RAMANAIAH AND ANOTHER¹ quashed the proceedings as the court is incompetent to take cognizance.

In view of the law declared by this Court, the cognizance taken by the magistrate is illegal and in violation of Section 195(1)(a) Cr.P.C.

Therefore, the criminal petition is allowed quashing the proceedings against the petitioners 1 to 5/A-1 to A-5 in C.C.No.180 of 2015 on the file of the Judicial Magistrate of First Class at Adoni, Kurnool District.

The miscellaneous petitions pending, if any, shall also stand closed.

Date:19.09.2017
ccm

JUSTICE M. SATYANARAYANA MURTHY



¹ 2006 (3) ALT (CrL.) 495 (A.P.)

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