

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5984 OF 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings against the petitioners/accused Nos.1 and 2 in Crime No.70 of 2017 on the file of the Station House Officer, Tandur Police Station, Manchirial District, registered for the offences punishable under Sections 420 IPC and 7 (1) (ii), 10 ECA and 23 PET.Act. .

2. Learned counsel for the petitioners submitted that even if the allegations made in the complaint *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioners. He further submitted that mere transporting the petrol by itself is not an offence in view of prevailing bandh in the locality; therefore, it is a fit case to quash the proceedings. ***Per contra***, learned Assistant Public Prosecutor submitted that the allegations made in the complaint *prima facie* constitute the offences alleged to have been committed by the petitioners.

3. A perusal of the record reveals that the petitioners are A1 and A2 and the 2nd respondent is the *de facto* complainant in Cr.No.70 of 2017. As per the allegations made in the complaint, on 16-06-2017 in the morning hours, the petitioners are transporting 5,000 litres of diesel from Mayuri Petrol Bunk at Indaram to Dasari Filling Station, Tandur, in the tanker bearing No. AP 24 TB 5356. It is further alleged that the petitioners are transporting the diesel from one place to another place without valid licence or permit. The gist of the allegations made in the complaint is that the petitioners violated the provisions of the Essential Commodities Act and Petroleum Act.

4. While exercising the inherent power under Section 482 Cr.P.C., the Court has to take into consideration the allegations made in the complaint only. The Court is not justified in embarking upon an enquiry as to probability,

reliability or genuineness of the allegations made in the complaint at the initial stage of investigation. Whether the petitioners have committed the alleged offences or not will come to light during the course of investigation. The material placed before the Court is *prima facie* sufficient to investigate into the matter in order to ascertain the truthfulness or otherwise of the allegations made in the complaint.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in **R.P.KAPOOR V. STATE OF PUNJAB** ¹, **STATE OF HARYANA V. BHAJAN LAL** ², **V.Y.JOSE V. STATE OF GURAJAT** ³ AND **TEEJA DEVI V. STATE OF RAJASTHAN** ⁴, I am of the considered view that it is not a fit case to quash the criminal proceedings at the threshold.

6. Taking into consideration the facts and circumstances of the case and also the principle enunciated by the Supreme Court in **ARNESH KUMAR V. STATE OF BIHAR** ⁵, the Station House Officer, Tandur Police Station, Manchierial District, is hereby directed to follow the procedure as contemplated under Section 41-A Cr.P.C. in Crime No.70 of 2017 so far as the petitioners/A1 and A2 are concerned.

7. With the above direction, the Criminal Petition is disposed of. Miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 21-07-2017
Hsd

¹ AIR 1960 SC 866

² AIR 1992 SC 604

³ (2009) 3 SCC 78

⁴ 2015 (1) ACR 564 (SC)

⁵ (2014) 8 SCC 273