

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2463 OF 2017

ORDER:

The present criminal petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code') to quash the proceedings in C.C. No.1163 of 2016 on the file of IV-Additional Chief Metropolitan Magistrate at Hyderabad.

2. The petitioner is arraigned as sole accused. He alleged to have committed the offence punishable under Section 16 of A.P. Prevention of Disfigurement of Open Places and Prohibition of Obscene and Objectionable Posters and Advertisement Act, 1997 (for brevity, 'the Act').

3. Sri Akurathi Ramakrishna, the learned counsel for the petitioner raised two-fold objection as to the very maintainability of the aforesaid calendar case.

4. According to the learned Counsel, Section 16 of the Act, which relates to taking cognizance of offences, would provide that unless Commissioner of Police authorizes any police officer not below the rank of an Inspector of Police in Metropolitan area i.e., Hyderabad, Secunderabad, Visakhapatnam and Vijayawada to file complaint in Court, the police not authorized to file a complaint with the police station and that there has been infraction of provisions of Section 16. Second submission made by the learned counsel has been that the offence alleged is barred by limitation under Section 468 of the Code.

5. The learned Additional Public Prosecutor would fairly submit that there has been infraction of Section 16 of the Act for the reason that the Sub-Inspector of Police submitted report with the Station House Officer, Kacheguda P.S., on the basis of which Crime No.19 of 2015 was issued and, thereafter, the investigation was completed by the Inspector of Police and a final report under Section 173 of the Code was filed and taken cognizance by the learned IV-Additional Chief Metropolitan Magistrate.

6. Section 16 of the Act is read thus:

“Section 16. Cognizance of offences

No Court shall take cognizance of any offence punishable under this Act except on a complaint filed, in the twin cities of Hyderabad and Secunderabad, Visakhapatnam and Vijaywada by the Commissioner of Police or by any Police Officer not below the rank of an Inspector of Police authorized by him in this behalf and elsewhere by the District Collector or any Officer not below the rank of a Mandal Revenue Officer authorized by him in this behalf.”

7. Thus, it is abundantly clear that there has been contravention of the provisions of Section 16 of the Act, in view of statutory bar and, therefore, request is acceded to.

8. Hence, prosecution of the accused in C.C. No.1163 of 2016 on the file of IV-Additional Chief Metropolitan Magistrate, Hyderabad since would amount to abuse of the process of law, the present Criminal Petition is allowed quashing the proceedings in C.C. No.1163 of 2016 on the file of IV-Additional Chief Metropolitan Magistrate, Hyderabad.

In view of the quashment of the proceedings in C.C. No.1163 of 2016 on the file of IV-Additional Chief Metropolitan Magistrate,

Hyderabad, the other point agitated by the learned counsel for the petitioner as to bar of limitation need not be addressed to.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 07.04.2017

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