

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.6523 of 2011

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the proceedings in Cr.No.274 of 2011 on the file of Mancherial Police Station, Adilabad District, registered for the offences punishable under Sections 486, 420, 511 IPC and Section 6-A of EC Act.

The allegations made in the complaint by the Agricultural Officer is that 100 packets of cotton seeds of Neeraja Type have been transported illegally in RTC Bus on 21.06.2011 at about 1100 hours by Banka Mohan, S/o Rajaiah, who has not shown relevant bills and documents for such purchase, and requested the Station House Officer to take action against that person. On the strength of the complaint, the police registered the same as a case in Cr.No.274 of 2011 and issued FIR for the offence under Sections 486, 420, 511 of IPC and Section 6-A of EC Act.

The present petition is filed to quash the proceedings on the ground that the allegations made in the complaint would not attract the offences stated above even if entire allegations made in the complaint have accepted on its face value and thereby, the proceedings in Cr.No.274 of 2011 are liable to be quashed.

During hearing, Sri S. Surender Reddy, learned counsel for petitioner, while reiterating the contentions raised in the petition, drawn the attention of this Court to the Act No.29 of 2007 dt. 16.08.2007 regarding rules to regulate the Supply, distribution,

Sale and Fixation of Sale Price of cotton seeds and for the matters connected therewith or incidental thereto.

The first and foremost contention to contend that the cotton seed is not an essential commodity and not covered by any of the Control Orders under Section 3 of the Essential Commodities Act, 1955 and thereby the registration of Section 6-A of EC Act is an illegality.

According to Act 29 of 2007, referred to above, the cotton seed is not an essential commodity within the meaning of the Essential Commodities Act, 1955, as amended by the Essential Commodities (Amendment) Act, 2006. The provisions of Seeds (Control) Order, 1983 issued under Section 3 of the Essential Commodities Act, 1955, are not applicable in so far as they relate to the cotton seeds w.e.f 12.02.2007. Thus, the provisions of either Seeds Control Order or any of the Control Orders passed by Government either Central or State by exercising power under Section 3 of the Essential Commodities Act, 1955, would have no application and therefore, registration of crime under Section 6-A of EC Act against the petitioner is an illegality and on this ground, the proceedings cannot proceed further against this petitioner for the offence under Section 6-A of EC Act and thereby the proceedings are liable to be quashed.

The other offence allegedly committed by the petitioner is an offence punishable under Section 486 of IPC, which deals with the punishment for Selling of goods marked with a counterfeit property mark. As per Section 486 IPC, whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property

mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall unless he proves:

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently.

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

But here, the petitioner was found transporting 100 packets of cotton seeds of 'Neeraja' brand and it is not the case of the prosecution at any stage that it is a counterfeit article or impressed with counterfeit marked . In the absence of any material, registration of crime for the offence under Section 486 IPC against the petitioner is an illegality and the said proceedings cannot be proceeded further against the petitioner.

The other offence allegedly committed by the petitioner is under Section 420 IPC. Section 420 IPC deals with punishment for cheating and dishonestly inducing delivery of property i.e., whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed and which is capable of being converted into a valuable security or induced that person to deliver any property or to do or to omit to do something which he would otherwise not have done or omitted.

Here, the petitioner was found in possession of 100 packets of Cotton Seed(Neeraja) while transporting, which is governed by Act 29 of 2007, and he did not dishonestly induced any person to part with any property etc., as required under Section 420 IPC. In the absence of any allegation that the petitioner dishonestly induced any person to part with any property, the proceedings initiated against the petitioner for the offence under Section 420 IPC cannot be proceeded further.

The other offence allegedly committed by the petitioner is for the offence under Section 511 of IPC. But, the complaint is bereft of any allegations to attract Section 511 of IPC and it is not an independent offence. As discussed above, I find that the allegations made against the petitioner in the complaint on its face value would not attract any offence punishable under Sections 486, 420 and 511 IPC and Section 6-A of EC Act. Therefore, the proceedings initiated against the petitioner in Cr.No.274 of 2011 are liable to be quashed since this Court can exercise inherent jurisdiction under Section 482 Cr.P.C. to quash the proceedings as the allegations made in the complaint on its face value would not constitute the offences stated above as held by the Apex Court in **STATE OF HARYANA V. BHAJAN LAL**¹, the Apex Court in guideline No.1, it is made clear that if the allegations made in the first information report or the complaint, would disclose an offence on their face value and accepted in their entirety, the court cannot interfere exercising jurisdiction to quash the proceedings.

¹ 1992 SUPP (1) SCC 335

Even otherwise in **STATE OF KARNATAKA V. L.MUNISWAMY**

& ORS.² wherein the apex court held as follows:

“In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction.”

In view of the principles laid down in the above two judgments, this Court can exercise jurisdiction under Section 482 Cr.P.C. and thereby the proceedings initiated against the petitioner in Cr.No.274 of 2011 are liable to be quashed as the allegations made in FIR on its face value accepting in its entirety do not constitute any of the offences.

Accordingly, this Criminal Petition is allowed and the proceedings initiated against the petitioner in Cr.No.274 of 2011 on the file of Mancherial Police Station, Adilabad District, registered for the offences punishable under Sections 486, 420, 511 of IPC and Section 6-A of EC Act, are hereby quashed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand dismissed.

M. Satyanarayana Murthy, J

11th April, 2017
cha

² AIR 1977 SC 1489

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



CRIMINAL PETITION No.6523 of 2011
Dt.11.04.2017

eha