

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5929 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C., to quash the proceedings against the petitioner-accused No.1 in C.C. No.123 of 2014 on the file of the court of Judicial Magistrate of First Class, Pathapatnam, Srikakulam District.

2. At the time of hearing, the learned counsel for the petitioner submitted that the allegations made in the charge sheet do not constitute any offence much less the offences alleged to have been committed by the petitioner. He further submitted that this Court quashed the proceedings against accused No.2 in C.C. No.123 of 2014 vide order dated 06.4.2016 in CrI.P.No.1316 of 2016; therefore, it is a fit case to quash the proceedings against the petitioner-accused No.1 also. The learned Public Prosecutor, in all fairness, submitted that this Court quashed the proceedings against accused No.2.

3. A perusal of the record reveals that on 26.4.2013, the Forest Beat Officer, Sarvakota, recorded Preliminary Offence Report under Rule 3(1) of the Andhra Pradesh Forest Offences (Compounding and Prosecution) Rules, 1969 for the offences under Sections 20(1)(c) (ii) & (iii) of A.P. Forest Act, 1965. After obtaining necessary permission for prosecution from the Divisional Forest Officer, Srikakulam on 13.11.2013, the Forest Range Officer, Pathapatnam filed the charge sheet in O.R. No.04/2013-14 against the petitioner and others for the offences under Sections 9 and 20(1)(c) (ii) & (iii) of A.P. Forest Act, 1965. The learned Magistrate, after satisfying himself, has taken the cognizance of offences and numbered the charge sheet as C.C. No.123 of 2014. As per the allegations made

in the complaint, accused No.4, without any authorization, entered into the forest area and cleared the bushes for laying road by the Panchayat Raj Department. Even if the allegations made in the charge sheet are taken to be true and correct, at the time of alleged offence, the petitioner was not present at the scene of offence and no material is placed connecting the petitioner with the offence. While allowing Criminal Petition No.1316 of 2016, filed by accused No.2, this Court observed as follows:

The petitioner herein is the Deputy Executive Engineer, Panchayat Raj, Irrigation Division, Sub-Division, Narasannapeta of Srikakulam District. Admittedly, the complaint was lodged by the Forest Range Officer, Pathapatnam. The main allegation is that some of the staff attached to the office of the petitioner herein were (sic, was) found cleaning the area of forest for formation of road, without the sanction of the Forest Officer, who is the complainant herein. Admittedly, the petitioner herein was not present at the time of cleaning of the said place as alleged in the complaint. Even assuming for a moment that the staff of the petitioner acted upon the direction of the petitioner, this Court is of the view that such an act of cleaning the area of forest would not attract the offence as alleged against the petitioner. Hence, the impugned proceedings are liable to be quashed.

The allegations made against the petitioner-accused No.1 are similar to the allegations made against accused No.2.

4. Having regard to the facts and circumstances of the case and also the orders of this court dated 06.4.2016 in CrI.P.No.1316 of 2016; I am of the considered view that the proceedings against the petitioner-accused No.1 are liable to be quashed.

5. Accordingly, the criminal petition is allowed, quashing the proceedings against the petitioner-accused No.1 in C.C. No.123 of 2014 on the file of the Court of Judicial Magistrate of First Class, Pathapatnam, Srikakulam District. Miscellaneous petitions if any pending in this criminal petition shall stand closed.

T.SUNIL CHOWDARY, J.

July 20 2017.
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