

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.4012 OF 2012

ORDER:

1. This Criminal Petition, under Section 482 of Cr.P.C., is filed by the Petitioners/A-1 and A-2 seeking to quash the proceedings in C.C. No.24 of 2010, pending on the file of the Court of Judicial First Class Magistrate, Mydukur, YSR Kadapa District (for short, 'the trial Court'), registered for the offence punishable under Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

2. Heard learned counsel for the petitioners and learned Public Prosecutor, appearing for the respondent – State.

3. Learned counsel for the petitioners bases his arguments only on one aspect *i.e.*, with regard to the competency of the Investigating Officer in filing the charge sheet. Learned counsel further submits that, as per Rule 32 of the Andhra Pradesh Petroleum Products (Licensing and Regulation of Supplies) Order, 1980, it is the Police Officer not below the rank of a Sub-Inspector or an officer of Vigilance Cell of Civil Supplies Department not below the rank of a Sub-Inspector that has to investigate the matter.

4. But, a perusal of the charge sheet shows that the Investigating Officer in this case is only the Head Constable.

5. Learned Public Prosecutor does not deny the said fact.

6. Learned counsel for the petitioners also relies on a judgment of this Court in ***E.Seshaiah Vs. State of A.P. and another***¹, which pertains to the case under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act of 1989'); wherein this Court held that the investigation was done by an Officer below the rank of Sub-Inspector of Police, who is not the competent Officer as specified under the Act of 1989, would vitiate the prosecution and allowed the Criminal Petition quashing the impugned proceedings therein.

¹ 2000 (2) ALT (CrI.) 91 (A.P.)

7. Hence, considering the above, this Court opines that continuation of further proceedings against the Petitioners/A-1 and A-2 would result in sheer abuse of process of law.

8. Accordingly, the Criminal Petition is allowed and all further proceedings against the Petitioners/A-1 and A-2 in C.C. No.24 of 2010, pending on the file of the Court of Judicial First Class Magistrate, Mydukur, YSR Kadapa District, are hereby quashed.

9. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

Date: 27.11.2018.
Dsh

T.RAJANI, J



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Date. 27.11.2018

DSH