

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.631 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. by the petitioner-A.1 seeking to quash the proceedings against him in S.C. No.112 of 2017 on the file of the Senior Civil Judge, Rayachoti, YSR Kadapa district registered for the offences punishable under Sections 379, 307, 353, 120B read with 34 IPC, and under Sections 20 (i) (c) (ii) (iii) (iv) (v) and 29 (iv) (a) of the A.P. Forest Act, 1967 and Rule 3 of the Andhra Pradesh Sandalwood and Red Sanders Wood Transit Rules, 1969.

2. Heard the learned counsel for the petitioner, the learned Assistant Public Prosecutor appearing for the respondent-State and perused the record.

3. Learned counsel appearing for the petitioner-A.1 would submit that the petitioner-A.1 was taken into custody on 13.04.2016 and detained in police station illegally till 16.04.2016, without there being commission of the offence by him and he is falsely implicated in this case and ultimately, prayed to quash the impugned proceedings against petitioner-A.1. It is further submitted that the petitioner filed an application in I.A. No.2 of 2018 before this Court to call for call data of L.Ws.1, 2, 6, 7 and 9 –N.Vedanayakam, T.Venkata Padmanabha Rao, M.Madhusudhana Reddy, K.Raghuram and N.Prabhakar, of the mobile phone numbers mentioned therein, which would reveal the illegal detention of the petitioner-A.1.

4. On the other hand, the learned Assistant Public Prosecutor opposed the grant of relief sought in the Criminal Petition.

5. In view of the contentions put forth by both sides, the point for determination is whether the proceedings in S.C. No.112 of 2017 on the file of the Senior Civil Judge, Rayachoti, YSR Kadapa district can be quashed against the petitioner-A.1?

6. As per the material placed before this Court, the petitioner-A.1, along with other accused in this case, was apprehended on 16.04.2016 at about 5.30 AM at vanka near Parigalabanda gutta, Arogyapuram, hamlet of Mudumpadu, Tsundupalli Mandal, when they tried to escape from the place on seeing police by raising cries as 'POLICE VARINI CHAMPI PARIPONDI RAA' and the accused said to have attacked the police personnel and then made an attempt to escape from the scene of offence. On interrogation, the petitioner-A.1 and other accused disclosed their respective identities. Panchanama was conducted in the presence of mediators wherein the petitioner-A.1 is said to have confessed commission of the offence. Pursuant to the confession of the accused, (i) 80 red sander logs wed about 1546 kgs worth Rs.61,00,000/-; (ii) Bolero vehicle No.AP31BS 4700; (iii) 4 cell phones, were seized in the presence of L.Ws.1 and 2 under cover of panchanama on that day itself (16.4.2016).

7. The contention of the learned counsel for the petitioner-A.1 is that the petitioner was detained in police station from 13.4.2016 and call data of L.Ws.1, 2, 6, 7 and 9 –N.Vedanayakam, T.Venkata Padmanabha Rao, M.Madhusudhana Reddy, K.Raghuram and N.Prabhakar, supports the contention raised on behalf of the petitioner. In the course of dealing with a petition filed under Section 482 Cr.P.C., it is not appropriate for this Court to go into the correctness or otherwise of the allegations and to call for the call data as requested by the petitioner-A.1. Invoking the

powers under Section 482 Cr.P.C., this Court is not supposed to conduct any exercise with regard to factual aspects. Innocence or otherwise of the petitioner-A.1 is required to be determined in the course of trial at appropriate stage. The petitioner is at liberty to put forth all his defences, including the summoning of the call data, in the course of trial at appropriate stage. On the basis of the material available, it cannot be held that the petitioner is innocent person and continuation of the impugned proceedings against him is nothing but abuse of process of Court. Viewed from any angle, it is not a fit case to quash the impugned proceedings.

8. The Criminal Petition is, accordingly, dismissed.

Miscellaneous Petitions pending, if any, in the Criminal Petition shall stand closed.

20.2.2018
DRK

DR.SHAMEEM AKTHER, J



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