

SMT. JUSTICE T.RAJANI

CRIMINAL PETITION No.10893 of 2011

ORDER

This criminal petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in C.C.No.25 of 2002 on the file of Special Judge under E.C.Act-cum-District and Sessions Judge, at Visakhapatnam, registered for the offences under Sections 120(B), 407, 420, 467, 468, 471, 472, 474 IPC and under Section 7(i) of E.C.Act., read with Sections 26 and 28 of A.P.Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 and under Section 411 IPC, against the petitioners/A1 to A3.

2. Heard learned counsel for the petitioners and the learned Public Prosecutor for the respondent-State.

3. Learned counsel for the petitioners submits that the matter is squarely covered by the order of this Court in Crl.P.Nos.10956, 10966, 10967 and 11146 of 2011 dated 22.10.2018 and he placed a copy of the said order.

4. By virtue of the order dated 22.10.2018 passed in Crl.P.Nos. 10956, 10966, 10967 and 11146 of 2011, this Court passed the following:

“This Criminal Petition, under section 482 of Cr.P.C., is filed by the Petitioners/A-5 to A-7 seeking to quash the proceedings in C.C. No.2 of 2002, on the file of the Court of Special Judge under E.C. Act-cum-District and Sessions Judge at Visakhapatnam, registered for the offences punishable under sections 120-B, 407, 420, 467, 468, 471, 472, 474 of I.P.C. and Section 7(i) of the Essential Commodities Act, 1955, R/w.

Sections 26 and 28 of the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980.

2. Heard learned counsel for the petitioners and learned Special Public Prosecutor appearing for the respondent - State.

3. Learned counsel for the petitioners straight away draws the attention of this Court to the order, dated 15.07.2004, passed by this Court, earlier, in Criminal Petition Nos.2535 of 2002 and batch; wherein it was observed as follows:

“2. The question involved in all these Criminal Petitions is whether the Special Court constituted under the provisions of Section 12-A of Essential Commodities Act, 1955 can try the cases involving offences under IPC along with the provisions of Essential Commodities Act. This issue is squarely covered by the Division Bench judgment of this Court in Kasarabada Rajeswara Rao Vs. State of A.P [2004 (1) ALT (CRL) 443 (DB) (AP)] . It has been held in the cited decision as follows:

“For the reasons given hereinabove, we agree with the view of the Punjab and Haryana High Court and hold that the Special Judge cannot try other offences along with offences under Essential Commodities Act which are not to be tried in a summary way. Since all the offences other than the offences under Essential Commodities Act are not to be tried in a summary way, therefore, the Special Judge has no jurisdiction to take cognizance of the offences mentioned herein. The reference is answered accordingly. We do not think it will serve any purpose if we send the matter back to the learned Single Judge and therefore, we quash the proceedings as far as they relate to offences under Sections 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code.”

3. In all these cases the offences under IPC are sought to be tried along with Essential Commodities Act under Section 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code. In view of the proposition of law laid down by the Division Bench of this Court, the petitioners herein cannot be tried for the offences under Sections 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code by the Special Court constituted under the provisions of Section 12-A of Essential Commodities Act, 1955.”

5. In the circumstances, following the said judgment and for the reasons mentioned therein, the Criminal Petition is allowed, quashing the proceedings in C.C.No.25 of 2002 on the file of Special Judge under E.C.Act-cum-District and Sessions Judge at

Visakhapatnam, against the petitioners/A1 to A3. Miscellaneous applications, if any, pending in this criminal petition shall stand closed.

29th October, 2018.

T. RAJANI, J

sj

