

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.4195 of 2018

ORDER:

In this Petition filed under Section 482 Cr.P.C. the petitioners/A2, A4 to A12 seek to quash the proceedings in COR No.252/2017 of Prohibition and Excise Station, Metpally registered for the offences under Sections 34(a), 37-A of A.P. Excise Act, 1968 r/w Rule 27 of the A.P.Excise (Grant of Licence to Sell Toddy, Conditions of Licence and Tapping of Excise Trees) Rules, 2007.

2) Denying the FIR allegations, learned counsel for petitioners would submit that the petitioners are all Directors of TCS Metpally Depot and they have not committed any offence and they were implicated in the case. He would further argue that charge under Section 37(A) of A.P. Excise Act has no application, as no untoward incident has been detected due to the alleged mixture of Alprazolam and Diazepam in the toddy.

3) Learned Additional Public Prosecutor opposed the petition stating that on 28.04.2016 the Excise Officials drawn samples of excise substances which on analysis found containing Alprazolam and Diazepam and investigation is pending and therefore there is strong *prima facie* case against all the accused and therefore FIR may not be quashed.

4) A perusal of the FIR, Panchanama and other material would reveal strong *prima facie* accusation against the accused. Hence, investigation shall proceed to its logical conclusion. Whether charge under Section 37A of A.P. Excise Act is maintainable or not can be determined only after thorough investigation. Omitting the same rest of the offences are punishable with less than 7 years.

5) In that view of the matter, IO shall proceed with the investigation by strictly following the guidelines rendered by Hon'ble Apex Court in the decision reported in *Arnesh Kumar vs. State of Bihar*¹ and also the procedure contemplated under Section 41-A Cr.P.C towards the petitioners/A2, A4 to A12. In turn, the petitioners/A2, A4 to A12 shall cooperate with the investigating agency for smooth completion of investigation.

6) Accordingly, this Criminal Petition is disposed of.

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

U. DURGA PRASAD RAO, J

Date: 27.04.2018

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¹ AIR 2014 SC 2756