

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.7906 of 2018

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed to quash the proceedings in C.C.No777 of 2016 pending on the file of Additional Judicial First Class Magistrate, Gudivada, Krishna District, registered for the offences punishable under Sections 419, 420 468, 120-B r/w 34 IPC and Sections 43,65,66 and 66-D of Information Technology Act, 2000-2008.

The Tahsildar, Gudivada, lodged a written report with the police stating that on 06.10.2014 attributing certain acts and omissions on the part of the petitioners including the other accused and reported that "as per the Eids Website of Government of Andhra Pradesh in the seeding Menu, a sub menu titled "confirm demo graphic verification for rejected". The list of the ration cards holders whose names are seeded with EID and UIDs of the other persons is given. On verification of some cards in FP Shop No.28 vide YAP No.06803028A0104, YAP No.0683028A0108, YAP No.06803028A0109 found that the names of the card holders are seeded with the Aadhar numbers of other people with an intention to cheat the Government. Further, the dealer of fair price shop No.28 namely Ch. Suryanarayana and his son namely Ch. Sinivasa Sharma indulged in the activity and requested to investigate the crime. Based on the written report given by the complainant, a case in Cr.No.189 of 2014 was registered for the offences punishable under Sections 419, 420 468, 120-B, 34 IPC and Sections

43,65,66 and 66-D of Information Technology Act, 2000-2008 by the Gudivada II Town Police and thereafter took investigation by the Sub Divisional Police Officer, Gudivada, examined as many as 120 witness and collected 28 documents as a part of investigation and having concluded that there is *prima facie* material to proceed against these petitioners and other accused, filed charge sheet before the concerned Court for various offences referred above as the Investigation discloses that these petitioner and other accused are liable for the offences punishable under Sections 419, 420 468, 120-B, 34 IPC and Sections 43,65,66 and 66-D of Information Technology Act, 2000-2008 for having bogus ration cards with a view to linking them with EDS and UIDs by conspiring with the revenue officials and computer operators, who are arrayed as accused using them as genuine and cheated the government.

The present petition is filed under Section 482 Cr.P.C. to quash the proceedings on the ground that sanction as required under Clause 17-B of AP State Public Distribution System (Control) Order, 2008, as the offences allegedly committed by these petitioners pertaining to Public Distribution System and therefore, on this ground alone, the petitioners sought to quash the proceedings against them for various offences stated above.

During hearing, learned counsel for the petitioner reiterated the contentions urged in the petition while drawing of the attention of this Court to the observations made by the Government in its Order Order dt. 27.02.2018 in Memo No.150/CS-I/2017 and on the strength of those observations made in the penultimate para, he

contended that the Revenue Officials exhibited laxity in ensuring full proof of Aadhar Card System and they are also responsible and that the role of fair price shop dealers will be revealed in the criminal investigation taken up by the police. On the basis of these observations, he contended that the major role is played by the Revenue Officials and not by these petitioners and prayed to quash the proceedings.

Learned Public Prosecutor appearing for the State of Andhra Pradesh contended that Clause 17(B) of A.P. State Public Distribution System (Control) Order, 2008, has no application since no offence was registered for the offences punishable not under the provisions of Essential Commodities Act for contravention of any of the Control Orders or contravention of conditions of the license and thereby the bar under Clause 17 (B) of the Act has no application and prayed to dismiss the petition.

As seen from the allegations made in the written complaint initially lodged with the police, it is clear that no offence punishable under Section 7 (A or B) or 8 of Essential Commodities Act was registered against these petitioners, but they allegedly committed the offences punishable under Sections 419, 420 468, 120-B r/w 34 IPC and Sections 43,65,66 and 66-D of Information Technology Act, 2000-2008. Thus, all the offences allegedly committed by these petitioners are punishable under Indian Penal Code and not under Essential Commodities Act i.e., Section 7 (A or B) or 8 of the Act.

Clause 17 (B) of A.P. State Public Distribution System (Control) Order made it clear that no authorized fair price shop dealer, nominated retailer, hawker or any other person who interfere with the process of distribution shall be prosecuted, for contravention, attempt to contravene or abet the contravention of any of the provisions of this Order or of the terms of the conditions of authorization or the directions issued by Government. Commissioner, appointing authority, except with the previous sanction of the District Collector concerned. Thus, the interdict contained under Section 17 (B) is only to lodge a report for contravention or attempt to contravene or abet the contravention of any provisions of the A.P. State Public Distribution Control Order or for contravening the condition of the licence. But in the present case, no such contravention is complained and therefore, Sec 17 (B) of AP State Public Distribution System (Control) order has no application to the present facts of the case. Consequently, failure to obtain sanction is not a ground to quash the proceedings against these petitioners for the offences referred above.

The observations made by the Government in the Order dt.27.02.2018 were also drawn to the attention of this Court and even if the observations are accepted, the Employees of Tahsildar, RDO and Collector Office are also involved in the above irregularities which amounted to an offence. But the ultimate observation of the Government is that the role of the fair price shop dealer will be revealed in the criminal investigation taken up by the police.

Even if the observations made in the Government Order is true, now the investigation is completed and the role of these petitioners is highlighted based on the statements of witnesses and the evidence collected during investigation. Thus, the material collected during investigation and the statements recorded by the police are directly pointing out the complicity of these petitioners for the offences referred above and therefore, this Court cannot exercise power under Section 482 Cr.P.C. to quash the proceedings since the allegations made in the charge sheet and other material collected during investigation *prima facie* shows that these petitioners committed offences punishable under Sections 419, 420 468, 120-B, 34 IPC and Sections 43, 65, 66 and 66-D of Information Technology Act, 2000-2008.

The power of this Court under Section 482 Cr.P.C. is limited and this Court can exercise such power only in exceptional circumstances to implement the Orders of the Courts or to prevent abuse of process of law or to secure ends of justice. The Apex Court in *State of Haryana v. Bhajan Lal*¹ keeping in view the scope of Section 482 Cr.P.C. framed seven guidelines. Even according to guideline No.3, if the allegations made in the charge sheet or complaint are accepted are true on its face and if it discloses any cognizable offence, the Court cannot normally exercise inherent jurisdiction to quash the proceedings and therefore, by applying the principle referred above to the present facts of the case, I find no ground to quash the proceedings at this stage. However, the

¹ 1992 Supp (1) SCC 335

petitioners are at liberty to raise all these grounds before the trial Court, if legally permissible.

Accordingly, this Criminal Petition is dismissed at the stage of admission.

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

M. SATYANARAYANA MURTHY, J

Date: 14-08-2018
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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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