

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 7280 OF 2011

ORDER :

This Criminal Petition is filed under section 482 of Cr.P.C., seeking to quash the proceedings in P.R.No. 252/11-12, dated 11/08/2011 on the file of Prohibition and Excise Station, Adilabad, Adilabad district by the petitioner/A-3.

2. The petitioner herein is A-3 in P.R.No.252/11-12, dated 11/08/2011 of Prohibition and Excise Station, Adilabad.

3. Heard the learned counsel for the petitioner/A-3 and the learned Public Prosecutor for the respondents/State.

4. Sri S. Surender Reddy, learned counsel for the petitioner/A-3 submits that the case of prosecution is that on 11/08/2011 at about 06:00 p.m., on reliable information about the illegal transportation of '*deshi daru bottles*', the officials of Prohibition and Excise Station, Adilabad checked the vehicle bearing No. MH-29F-756 and found 1440 '*deshi daru bottles*' in the said vehicle. When the Excise officials tried to catch hold of two persons, who are in the vehicle, one of them absconded from the scene and the other person is A-1, who was arrested by the Excise officials who was found in possession of '*desi daru bottles*'. A-1 confessed that he was supplying the bottles to the petitioner/A3 herein. Basing on his confession, the police arrayed the petitioner as A-3 in the above crime. After seizing the bottles from the

possession of A-1, they have produced him before the Judicial Magistrate of First Class, Adilabad and forwarded the samples for chemical analysis. The learned counsel for the petitioner submits that on these allegations, the respondent No.2 has registered a case against A-3.

5. It is mainly contended that the petitioner is innocent and he is falsely implicated on the basis of confession of A-1. It is further stated that due to enmity between A-1 and A-3, the petitioner is falsely implicated in this case though he was not present at the scene of offence and no material has been seized from his possession. It is further stated that interim stay is granted in this matter, and therefore, the proceedings against the petitioner may be quashed.

6. The learned Public Prosecutor opposed for quashing the proceedings. It is pertinent to note that the contentions raised by the counsel for the petitioner that due to enmity between A-1 and A-3, A-1 has implicated A-3 in this offence is a question of fact that cannot be decided in this criminal petition. Basing on the confessional statement of A-1, A-3 has been implicated in this case as per the version of the petitioner.

7. In the light of the submissions made by the counsel for the petitioner, what proceedings are initiated as against the other accused are not known. On consideration of the submissions made by the counsel for the petitioner and learned Public Prosecutor, since the question of fact is involved in this matter the proceedings against this petitioner cannot be quashed at this stage. However, since the interim stay is granted in favour of the petitioner and the same is in force for all these years, the police are directed to

investigate into the matter by following the procedure contemplated under section 41-A Cr.P.C., in *ARNESH KUMAR V/s. STATE OF BIHAR*.

8. With the above observation, this Criminal Petition is disposed of.

9. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand closed.

JUSTICE GUDISEVA SHYAM PRASAD.



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