

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 8480 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') by the petitioner/A1 to quash the proceedings against him in C.C.No.485 of 2015 on the file of Additional Judicial First Class Magistrate, Yelamanchili, registered for the offences punishable under Sections 341 read with 34 IPC.

L.W.1 Barika Arjun, who is working as Head Constable, Atchutapuram Police Station, lodged a report with the Station House Officer alleging that on 20.01.2015 between 11.00 to 12.30 hours at road Junction, Atchutapuram Village, the petitioner and others gathered as mob on the road and caused trouble to general traffic and obstructed the vehicles. Based on the report, a case in Crime No.13 of 2015 was registered for the offences referred supra and took up investigation. During the course of investigation, as many as six witnesses were examined and their statements are recorded under Section 161(3) Cr.P.C. After collecting evidence and having concluded that there is *prima facie* material to proceed against the accused and filed charge sheet.

At the hearing, learned counsel for the petitioner contended that LW.1 who is working as Head Constable, is incompetent to lodge the present report in view of bar under Section 195 Cr.P.C. and apart from that the petitioner never committed any offence and placed the judgment of this Court in **Dr Kodela Siva Prasad and others v Koritala Venkata Ramanaiah and another**¹.

Whereas learned Public Prosecutor opposed the petition.

¹ 2006(3) ALT (crI) 495 (A.P)

The report was lodged by L.W.1 Police Constable, who was on bandobust duty at the time of the alleged incident. The offence allegedly committed by the petitioner is under Section 341 of IPC which deals with punishment for wrongful restraint. The word wrongful restraint is defined under Section 339 of IPC and according to it, whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed is said wrongfully to restrain that person. Therefore, there must be an obstruction of a person from moving in any direction to constitute the offence. According to the case of prosecution, the general public is obstructed from moving in one direction and they staged dharna against the Government orders but such obstruction to move in a specific direction does not constitute the offence punishable under Section 341 of IPC. Consequently, the proceedings against the petitioner for the offence punishable under Section 341 of IPC are liable to be quashed.

In view of my foregoing discussion, the criminal petition is allowed quashing the proceedings against the petitioner/A1 in C.C.No.485 of 2015 pending before the Additional Judicial Magistrate of First Class, Yelamanchili.

Pending miscellaneous petitions, if any, in this petition shall stand closed.

M.SATYANARAYANA MURTHY, J.

10-07-2018

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