

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.9714 OF 2018

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code') by the petitioners - accused to quash the proceedings against them in Calendar Case No.17 of 2018, pending on the file of the learned Special Court for trial of Offences against MLAs, and MPs, -cum- VIII Additional District Judge, Vijayawada, registered for the offences punishable under Sections 147, 341 and 188 read with 149 of the Indian Penal Code, 1860 (for short 'IPC').

2. The Sub-Inspector of Police, East Police Station Tirupati - LW.9, after registration of a case in Crime No.273/2015 against the petitioners herein and recording statements of witnesses and collection of evidence, filed a charge sheet against them for the offences punishable under Sections 147, 341 and 188 read with 149 IPC, alleging that on 29.08.2015 at 9.30 A.M., accused Nos.2 to 8 under the leadership of accused No.1, Sri Chevireddy Bhaskar Reddy, MLA, Chandragiri Constituency, have formed into unlawful assembly at Poorna Kumbam Circle, near Railway Over bridge, Tirupati Town by giving slogans at "*ANDHRA PRADESH KI PRATHYEKA HODA KALPINCHALI*" and they wrongfully restrained public and vehicles with a common object of causing obstruction to the public and organized *Bandh* without prior permission and staged *Dharna* raising

slogans for Special Status to Andhra Pradesh on the eve of *bandh* call given by YSR Congress Party, and thereby they committed the aforesaid offences.

3. As seen from the charge sheet, it was filed into Court by the Sub-Inspector of Police, whereas Section 195 (1) (a) of the Code prescribes that any Court can take cognizance of an offence punishable under Section 188 of Indian Penal Code on the complaint in writing by the public servant concerned or some other public servant to whom he is administratively subordinate. Under Section 30 of the Police Act, 1861, an order can be made only by the Superintendent of Police or Assistant Superintendent of Police of the District and, thus, obviously the complaint/charge sheet taken cognizance of by the Court was in violation of the statutory mandate of Section 195(1) (a) of Code.

4. So far as charge under Section 147 IPC is concerned, it deals with that whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. But, the charge sheet filed by the police does not disclose the specific allegation except mentioning a bald statement.

5. The charge sheet also does not give any particulars of when, where and how such an order under Section 30 of the Police Act, 1861, was promulgated or any general or special notice of the same was given to any of the accused in the case, while the allegation concerning an

offence under Section 341 IPC was not elaborated as due to wrongfully restraining any person by the activities of any of the accused. Irrespective of the other minor considerations, in view of the violation of Section 195 (1) (a) of the Code, the complaint/charge sheet itself is incompetent and any continuance of criminal proceedings against the petitioners on such complaint will be an abuse of process of law.

6. As the complaint/charge sheet itself is found to be not in accordance with law, the proceedings in the entire case have to be quashed in the interests of justice.

7. Accordingly, the present Criminal Petition is allowed, and the further proceedings in Calendar Case No.17 of 2018, pending on the file of the learned Special Court for trial of Offences against MLAs. and MPs. - cum - VIII Additional District Judge, Vijayawada, against the petitioners - accused registered for the offences punishable under Sections 147, 341 and 188 read with 149 IPC are hereby quashed.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

September 12, 2018
Mgr