

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION Nos.10802,10803,10804,10805 & 11486 OF 2011

COMMON ORDER:

These Criminal Petitions are filed, under Section 482 of the Code of Criminal Procedure, 1973, by the respective petitioners - respective accused seeking to quash the respective proceedings against them in Crime/F.I.R. Nos.304 of 2011, dated 26.10.2011, of Kurnool II Town Police Station, Kurnool, 289 of 2011, dated 26.10.2011 of Kurnool IV Town Police Station, Kurnool; 112 of 2011, dated 26.10.2011 of Kurnool I Town Police Station, Kurnool; 104 of 2011, dated 26.10.2011 of Velgodu Police Station, Kurnool District; and 155 of 2011, dated 28.10.2011 of Yemmiganur Police Station, Kurnool District, respectively, registered for the offence punishable under Section 3 of the Prevention of Damage to Public Property Act, 1984 (for short 'Act, 1984').

2. Though different crimes are registered against different persons as well as the cause of action for all the crimes, but the offence is one and the same. Hence, all these petitions are taken up together for common consideration and disposal.

3. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The allegations against the respective petitioners are that they, who belong to Popular Front of India (PFI), have pasted some posters within the jurisdiction of respective police stations. The learned counsel

for the petitioners submits that the allegations made in the respective complaints do not attract the alleged offence as the allegation is only that they have pasted posters. Section 3 of the Act, 1984 reads as follows:

“3. Mischief causing damage to public property.-

(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being-

(a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;

(b) any oil installations;

(c) any sewage works;

(d) any mine or factory;

(e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith, shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine: Provided that the court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months.”

Whereas, ‘mischief’ is defined under Section 425 of the Indian Penal Code, 1860, which reads as follows:

“425. Mischief.-Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.
Explanation 1.-It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not. Explanation 2.-Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly. Illustrations

(a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(b) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(e) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the under-writers. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.

(g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief."

5. Hence, on the face of respective complaints itself, no allegations are attracted against the respective petitioners for the said offence.

6. Considering the above circumstances, all the above Criminal Petitions are allowed, and the proceedings against the respective petitioners - accused are hereby quashed in in Crime/F.I.R. Nos.304 of 2011, dated 26.10.2011, of Kurnool II Town Police Station, Kurnool, 289 of 2011, dated 26.10.2011 of Kurnool IV Town Police Station, Kurnool; 112 of 2011, dated 26.10.2011 of Kurnool I Town Police Station, Kurnool; 104 of 2011, dated 26.10.2011 of Velgodu Police

Station, Kurnool District; and 155 of 2011, dated 28.10.2011 of Yemmiganur Police Station, Kurnool District, respectively.

Consequently, respective Miscellaneous Petitions, if any, pending in the respective Criminal Petitions stand closed.

SMT. T. RAJANI, J

October 29, 2018
Mgr

