

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.10883 of 2011

COMMON ORDER:

This Criminal Petition is filed, under Section 482 of Cr.P.C., by the petitioners/A1 to A9, seeking to quash the proceedings in Cr.No.281 of 2011 of III Town Police Station, Kurnool, registered for the offence punishable under Section 3 of Prevention of Damage to Public Property Act, 1984 (for short 'Act, 1984'), against them.

2. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondent-State of Andhra Pradesh.

3. The allegations in the complaint are that the petitioners, who belong to Popular Front of India (PFI), have pasted some posters to the wall of Collectorate main gate and caused damage to the public properties.

4. Learned counsel for the petitioners submits that the allegations made in the complaint do not attract the alleged offence as the petitioners 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 complaint itself, the allegations do not attract the alleged offence.

6. Considering the above circumstances, the Criminal Petition is allowed, and the proceedings in Cr.No.281 of 2011 on the file of III Town Police Station, Kurnool, are quashed against the petitioners/A1 to A9. Miscellaneous Petitions, if any, pending in this petition stand closed.

30th October, 2018

sj

SMT. T. RAJANI, J

