

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION Nos.10956, 10966, 10967 AND 11146 OF 2011

COMMON ORDER:

The present Criminal Petition Nos.10956, 10966, 10967 and 11146 of 2011 are filed, under Section 482 of the Code of Criminal Procedure, 1973, by the petitioners seeking to quash the proceedings against them in Calendar Case Nos.2, 11, 7 and 14 of 2002, respectively, pending on the file of the Special Judge under E.C. Act - cum - District and Sessions Judge at Visakhapatnam, for the offences punishable under Sections 120-B, 407, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code, 1860 (for short 'IPC') and Section 7 (1) of the Essential Commodities Act, 1955, read with Clause 26 and 28 of the Andhra Pradesh Petroleum Products (Licensing and Regulation of Supplies) Order, 1980.

2. Heard Sri Venkataiah Marapaka, learned counsel for the petitioners - respective accused, and the learned Public Prosecutor for the State of Andhra Pradesh.

3. The learned counsel for the petitioners would submit that the present matters are covered by the order, dated 25.09.2018, passed by this Court in Criminal Petition No.9294 of 2011, and placed the copy of said order. He also submits that in the present cases also, crimes pertain to the year 1996 and charge sheets are filed in the year 2001.

4. Perused the copy of order, dated 25.09.2018, in Criminal Petition No.9294 of 2011, wherein this Court passed the following:

“This Criminal Petition, under section 482 of Cr.P.C., is filed by the Petitioners/A-5 to A-7 seeking to quash the proceedings in C.C. No.2 of 2002, on the file of the Court of Special Judge under E.C. Act-cum-District and Sessions Judge at Visakhapatnam, registered for the offences punishable under sections 120-B, 407, 420, 467, 468, 471, 472, 474 of I.P.C. and Section 7(i) of the Essential Commodities Act, 1955, R/w. Sections 26 and 28 of the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980.

2. Heard learned counsel for the petitioners and learned Special Public Prosecutor appearing for the respondent - State.

3. Learned counsel for the petitioners straight away draws the attention of this Court to the order, dated 15.07.2004, passed by this Court, earlier, in Criminal Petition Nos.2535 of 2002 and batch; wherein it was observed as follows:

“2. The question involved in all these Criminal Petitions is whether the Special Court constituted under the provisions of Section 12-A of Essential Commodities Act, 1955 can try the cases involving offences under IPC along with the provisions of Essential Commodities Act. This issue is squarely covered by the Division Bench judgment of this Court in Kasarabada Rajeswara Rao Vs. State of A.P [2004 (1) ALT (CRL) 443 (DB) (AP)] . It has been held in the cited decision as follows:

“For the reasons given hereinabove, we agree with the view of the Punjab and Haryana High Court and hold that the Special Judge cannot try other offences along with offences under Essential Commodities Act which are not to be tried in a summary way. Since all the offences other than the offences under Essential Commodities Act are not to be tried in a summary way, therefore, the Special Judge has no jurisdiction to take cognizance of the offences mentioned herein. The reference is answered accordingly. We do not think it will serve any purpose if we send the matter back to the learned Single Judge and therefore, we quash the proceedings as far as they relate

to offences under Sections 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code.”

3. In all these cases the offences under IPC are sought to be tried along with Essential Commodities Act under Section 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code. In view of the proposition of law laid down by the Division Bench of this Court, the petitioners herein cannot be tried for the offences under Sections 120-B, 407, 411, 420, 467, 468, 471, 472 and 474 of the Indian Penal Code by the Special Court constituted under the provisions of Section 12-A of Essential Commodities Act, 1955.”

5. Hence, in view of the above, all these Criminal Petitions are also allowed, and all the proceedings in Calendar Case Nos.2, 11, 7 and 14 of 2002, pending on the file of the Special Judge under E.C. Act - cum - District and Sessions Judge at Visakhapatnam against the petitioners only are hereby quashed.

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

SMT. T. RAJANI, J

October 22, 2018

Mgr