

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10513 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 Nos.1 to 54 to quash the proceedings against them in Calendar Case No.521 of 2016, pending on the file of the learned Judicial Magistrate of First Class, Dharmavaram, registered for the offence punishable under Section 188 of the Indian Penal Code, 1860 (for short 'IPC').

2. The Inspector of Police, Dharmavaram Town Police Station - LW.14, after registration of a case in Crime No.269/2016 against the petitioners herein and recording statements of witnesses and collection of evidence by LW.13 - Inspector of Police, filed a charge sheet against them for the offence punishable under Section 188 IPC, alleging that on 29.08.2015 accused Nos.2 to 54 under the leadership of accused No.1 - Kethi Reddy Venkataramireddy, Ex. M.L.A., started rally from S.B.I. Colony via Vasavi Circle, Kalajyothi Circle, P.R.T. Circle to his house for the cause of 'Special Status to Andhra Pradesh State' by violating provisions of Sections 30 and 30-A of the Police Act, 1861, and also Section 144 IPC, and thereby they committed the aforesaid offence.

3. As seen from the charge sheet, it was filed into Court by the 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 is in violation of the statutory mandate of Section 195(1) (a) of Code. In view of the violation of Section 195 (1) (a) of the Code, taking cognizance by the Court itself is illegal and continuance of criminal proceedings against the petitioners on such complaint will be an abuse of process of law.

4. 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.

5. Accordingly, the present Criminal Petition is allowed at the stage of admission itself, and the further proceedings in Calendar Case No.521 of 2016, pending on the file of the learned Judicial Magistrate of First Class, Dharmavaram, registered for the offence punishable under Section 188 IPC against the petitioners - accused Nos.1 to 54 are hereby quashed.

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

M. SATYANARAYANA MURTHY, J

October 03, 2018
Mgr

