

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10773 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 26 to quash the proceedings against them in Crime/FIR No.72 of 2018, dated 27.07.2018, on the file of the Bathalapalli Police Station, Anantapur District, Andhra Pradesh State, registered for the offences punishable under Section 143 and 188 read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. The Sub-Inspector of Police, Bathalapalli Police Station, upon receipt of a written report given by HC 1032, PCs.1508 and 3479, registered a case in Crime No.72/2018 against the petitioners herein for the aforesaid offences alleging that on 27.07.2018, the petitioners herein, who belonged to different villages of Bathalapalli Mandal, unlawfully assembled near Four Road Junction by removing silencers of motorcycles and conducted a Rally by raising slogans and cried loudly, and thereby caused public nuisance to the general public without taking any official permission to run either rally or to conduct party meetings. Thus, the petitioners violated the provisions of Sections 30 of the Police Act, 1861, and thereby they committed the aforesaid offence.

3. Section 195 (1) (a) of the Code prescribes that any Court can take cognizance of an offence punishable under Section 188 IPC 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. In the instant case, the complaint was given by the Head-constables and Police Constables and, thus, obviously, registration of crime against the petitioners basing on the complaint given by the police officials below the rank of Superintendent of Police 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, registration of crime itself is illegal and continuance of criminal proceedings against the petitioners on such complaint would be an abuse of process of law.

4. As the complaint 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. Further, the offence under Section 143 IPC is for committing the offence under Section 188 IPC and when the charge for the offence under Section 188 IPC is being quashed, the charge for the offence under Section 143 IPC is also liable to be quashed.

5. Accordingly, the present Criminal Petition is allowed at the stage of admission itself, and the further proceedings in Crime/FIR No.72 of 2018, dated 27.07.2018, on the file of the Bathalapalli Police Station, Anantapur District, Andhra Pradesh State, registered for the offences punishable under Section 143 and 188 read with 34 IPC against the petitioners - accused Nos.1 to 26 are hereby quashed.

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

M. SATYANARAYANA MURTHY, J

October 10, 2018
Mgr

