

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.11319 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioner/ A1, seeking to quash the proceedings in O.R.No.56 of 2018-19 on the file of the Range Officer, Rajampet Range, registered for the offences punishable under Sections 20(1)(c) (ii) (iii) (iv) (x), Section 20(ii)(b), Sections 44 and 60 of the APF Act, 1967 and Rules 3 and 4 of A.P.Sandal Wood and RS Transit Rules, 1969 and U/r. of APRS Wood Possession Rules, 1989, Sections 107 and 379 IPC and Sections 17D, 17H, 29 of the Wildlife (Protection) Act, 1972 and as per the A.P.Forest (Amendment) Act, 2016 (AP Act No.15 of 2016) vide G.O.Ms.No.49 EFS & T, dated 25.05.2016 .

2. The petitioner is seeking to quash the FIR Proceedings with the contentions in the grounds that the very registration of crime based on the confession of A2 against the petitioner as A1 is perse unsustainable and except for Section 379 IPC, all other offences are bailable offences punishable upto 3 years and the petitioner otherwise entitled to protection of Section 41-A Cr.P.C. and thereby, the FIR proceedings are liable to be quashed.

3. The learned Public Prosecutor opposed the same for what the learned counsel for the petitioner reiterated the above.

4. Heard and perused the FIR, quash petition averments and the panchanama proceedings.

5. There is no bar for the investigation based on the disclosure statement of co-accused including in registration of a crime leave about even statements of a co-accused other than hit by Section 25 of the Indian Evidence Act can be used in trial under Section 30 of the Evidence Act during trial being admissible if otherwise likewise under Section 26 of the Evidence Act, thereby, it is premature to go into that and once such is the case, there is nothing to quash the FIR proceedings.

6. So far as entitlement of the concession under Section 41-A Cr.P.C. giving of notice before arrest in the claim of all offences punishable below seven years. A perusal of the penal provisions shows, some are punishable above seven years. Hence, this Court cannot direct the police to strictly follow Section 41-A Cr.P.C. insofar as the petitioner is concerned.

7. With the above observations, the Criminal Petition is dismissed.

8. Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 29.10.2018
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