

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.952 OF 2019

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed by the petitioner seeking to quash the proceedings in Procg.No.C/1164/2018, dated 31.12.2018, issued by the Executive Magistrate & Tahsildar, Balapur Mandal, Ranga Reddy District, whereby the learned Magistrate ordered for seizure of subject property i.e., house bearing No.7-66, Sadath Nagar, Shaheen Nagar, Kothapet Village.

2. Heard both sides and perused the record.

3. Learned counsel for the petitioner would submit that the impugned proceedings were issued under Section 133 Cr.P.C; that the said provision enables the Executive Magistrate to order for removal of nuisance, but, it does not vest the power of seizure of property on him and ultimately, prayed to set aside the impugned proceedings.

4. As per the material placed on record, the subject Crime No.304 of 2018 was registered against one Mohd Abdul Raheem, who is said to be a tenant in the subject premises belonging to this petitioner, on the ground that he indulged in storing of tobacco etc., therein and he was prosecuted for the offences punishable under Sections 188, 270, 273 and 284 I.P.C and Section 21 (1) of Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and

Commerce, Production, Supply and Distribution) Act, 2003. This petitioner is not an accused in the said crime.

5. In the course of submissions, it is brought to the notice of this Court that the said Mohd. Abdul Raheem had taken the custody of the tobacco articles pursuant to the order passed by the Executive Magistrate. As seen from the entire record, there is no accusation against this petitioner. Moreover, the Executive Magistrate has no power to pass the order of seizure of subject premises. Under these circumstances, the impugned proceeding dated 31.12.2018, issued by the Executive Magistrate & Tahsildar, Balapur Mandal, Ranga Reddy District, is liable to be set aside.

6. Accordingly, the Criminal Petition is allowed setting aside the proceeding, dated 31.12.2018, and the learned Executive Magistrate & Tahsildar, Balapur Mandal, Ranga Reddy District, is directed to remove the seal of house bearing No.7-66, Sadath Nagar, Shaheen Nagar, Kothapet Village and handover the possession of the premises to the petitioner forthwith, not later than three (3) days.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

Dr. SHAMEEM AKTHER, J

APRIL 03, 2019
YVL