

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 11239 of 2018

ORDER :

Heard the learned counsel for the petitioner-accused, who is accused in C.C.No. 24 of 2018 on the file of the Court of Special Sessions Court for the trial of Cases against M.L.As and M.Ps., at Nampally, Hyderabad and the learned Public Prosecutor representing the first respondent/State. Notice sent to the second respondent, who is no other than Sub-Inspector of Police, Punjagutta Police Station, Hyderabad, even served failed to attend and on his behalf also, learned Public Prosecutor submitted the arguments and perused the material on record.

2. The prayer in the quash petition is to quash the Proceedings in C.C.No. 24 of 2018 stated supra, registered and taken cognizance for the offences punishable under section 341 and 188 of I.P.C. The same is the out-come of Crime No. 520 of 2015 of Punjagutta Police Station, dated 02-07-2015 for the offences supra and the Police after investigation by citing six witnesses filed charge sheet of whom, LW-1 is the complainant/Sub-Inspector of Police,

second respondent herein, LWs.2 to 5 are the Police Constables of Punjagutta Police Station and LW-6 is the Investigation Officer, who registered the F.I.R., and filed the charge sheet in the Court. The accusation is that on 01-07-2018 at 22:30 hours, while *de facto* complainant was on duty as Sub-Inspector of Police, Punjagutta Police Station. He came to know of a rally consisting of two wheelers and four wheelers altogether around hundred vehicles headed by the petitioner/accused with others coming via East Zone and Central Zone of Hyderabad Police Unit without getting permission from any competent authority and while *de facto* complainant and others patrolling the vehicles at Khairtabad junction at about 1:05 p.m., the said rally entered into Punjagutta Police Station limits at Khairtabad junction and they tried to stop the checking of the above rally headed by the petitioner/accused among others they did not stop and proceeded towards "Taj Krishna Hotel" and when verified with the authorities found no permission obtained whereby offences constituted supra. So far as the offence under section 188 of I.P.C. leave about whether attracts or not crime cannot be registered and it is only on police complaint as contemplated by section 195 Cr.P.C., to be proceeded with if

at all and thereby the very registration of the crime and filing of the charge sheet and taking of cognizance no-way survives to sustain. So far as the offence under section 341 of I.P.C., concerned, it is the punishment for wrongful restraint defined in section 339 of I.P.C., which says whoever voluntarily obstructs any person so to prevent that person from proceeding in any direction in which that person has a right to proceed tantamount to wrongful restraint. It is not the case that the petitioner/accused obstructed the Police Officers from proceeding into any direction by not allowing them to proceed in that direction thereby the offence has no application to the present facts to attract.

3. Having regard to the above, this Criminal Petition is allowed, quashing the Proceedings C.C.No. 24 of 2018 on the file of the Court of Special Sessions Court for the trial of Cases against M.L.As and M.Ps., at Nampally, Hyderabad.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

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[RESULT : ALLOWED]

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