

APHC010228532022



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**



[3396]

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE DR.JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 3763/2022

Between:

BALU @ BANDIMEKALA BALARAMUDU, , S/O. OBULESU, AGED 38 YEARS, OCC. BUSINESS, R/O. D.NO.12-137-1, AMBEDKAR NAGAR, YADIKI VILLAGE AND MANDAL, ANANTAPUR DISTRICT.

...PETITIONER/ACCUSED

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH, AMARAVATI.
- 2.RAJESH M, S/O. NOT KNOWN, WORKING AS SUB-INSPECTOR OF POLICE, GOOTY POLICE STATION, GOOTY MANDAL, ANANTAPUR DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

- 1.VIJAYA KUMAR NAIDANA

Counsel for the Respondent/complainant(S):

- 1.PUBLIC PROSECUTOR (AP)

The Court made the following:

ORDER:

The instant petition under Section 482 of Code of Criminal Procedure, 1973¹ has been filed by the Petitioner/Accused No.1, seeking quashment of the proceedings against him in Crime No.267 of 2019 on the file of Gooty

¹ for short 'Cr.P.C'

Police Station, Anantapur District for the offence punishable under Section 7(1) of the Essential Commodities Act².

2. Heard Sri Vijay Kumar Naidana, learned counsel for the Petitioner and Ms.K.Priyanka Lakshmi, learned Assistant Public Prosecutor for Respondent Nos.1 and 2.

3. Learned counsel for the Petitioner would submit that the Petitioner was falsely implicated in the present case and except the confessional statements of Accused Nos.3 and 4, there is no incriminating material to connect the Petitioner/Accused No.1 with the alleged crime. Hence, prayed for quashment of the proceedings against the Petitioner.

4. Learned Assistant Public Prosecutor would submit that there are specific allegations against the Petitioner in the commission of the offence and the same has to be proved during investigation. At this stage, the proceedings against the Petitioner cannot be quashed. Hence, prayed for dismissal of the petition.

Point for Determination

5. Having heard the submissions of the learned counsel representing both the parties, now the point that would emerge for determination is:

Whether the proceedings against the Petitioner/Accused No.1 in Crime No.267 of 2019 on the file of Gooty Police Station, Anantapur District, are liable to be quashed by exercising jurisdiction under Section 482 of the Cr.P.C.?

² for short 'EC Act.'

Determination by the Court

6. A bare perusal of Section 482 makes it clear that the Code envisages that inherent powers of the High Court are not limited or affected so as to make orders as may be necessary; (i) *to give effect to any order under the Code or, (ii) to prevent abuse of the process of any Court or, otherwise (iii) to secure ends of justice.* A court while sitting in Section 482 jurisdiction is not functioning as a trial court, court of appeal or a court of revision. It must exercise its powers to do real and substantial justice, depending on the facts and circumstances of the case. These powers must be invoked for compelling reasons of abuse of process of law or glaring injustice, which are against sound principles of criminal jurisprudence.

7. The present case has been registered alleging that, on 26.08.2019 at about 2.00 p.m., on receipt of credible information about illegal transportation of PDS rice, Respondent No.2 along with the Police and Panchayat Authorities went to Kothapeta Bridge, Gooty Mandal and found one Mahindra Alfa Delux Auto bearing No.AP 02 TH 3076 coming from Tadipatri and on seeing the Police, the driver and the other person in the Auto, who are Accused Nos.3 and 4, tried to skulk away. On apprehension and questioning by the Police, they revealed their identity and confessed that they got acquainted with Petitioner/Accused No.1 and his clerk i.e., Accused No.2 and that, Accused Nos.1 and 2 informed that they would purchase the PDS rice and that, on the instructions of Accused Nos.1 and 2, they collect the PDS rice from the nearby villages and sell the same to Accused Nos.1 and 2. It was further stated that,

in this regard, as directed by the Petitioner/Accused No.1, they came to Yadiki and Accused Nos.1 and 2 got loaded the PDS rice into their Auto to transport the same to Kurnool, they were going to Kurnool with the PDS rice and were caught by the Police. Then the Police seized 16 bags of PDS rice and the Auto under the cover of mediatorsnama, arrested Accused Nos.3 and 4 for sent for remand. As such, the present case in Crime No.267/2019 for the offence under Section 7(1) of EC Act on the file of Gooty Police Station has been registered against A.1 to A.4. Aggrieved thereby, the Petitioner/Accused No.1 filed the present petition seeking quashment of the proceedings against him.

8. It is the main contention of the Petitioner/Accused No.1 that the present case has been registered against him based on the confessional statement of Accused Nos.3 and 4 and the same is not tenable under law. However, may be the Petitioner/Accused No.1 was not actively involved in the offence alleged against him, but, he cannot seek to quash the proceedings against him merely on the basis of the contention that he was being implicated only on the confession statement of the co-accused to the police. It is always open to the petitioner herein to come out unscathed in the trial, by proving his innocence. When such is the case, during investigation it is also possible that any corroborative material can be brought forth in support of the case of the prosecution. When such contingency is possible during the course of investigation, the proceedings against the Petitioner/Accused No.1 cannot be quashed at the threshold and no prejudice is going to be caused to the Petitioner herein except subjecting himself to the investigation.

9. In such circumstances, this Court is of the view that it is not a fit case to exercise the jurisdiction under Section 482 Cr.P.C to quash the proceedings against the Petitioner/Accused No.1 and accordingly, the petition deserves dismissal.

10. In result, the Criminal Petition is dismissed.

Pending applications, if any, shall stand closed.

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:31.12.2024
Dinesh

THE HONOURABLE DR.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Crl.P.No.3763 of 2022

Dated:31.12.2024
Dinesh