

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

CRIMINAL PETITION No.470 of 2023

ORDER:

The petitioner is the 8th accused in Crime No.264 of 2021 on the file of Kavali Rural Police Station, SPSR Nellore District for offences under Sections 143, 269, 279, 271, 188 r/w. 149 of Indian Penal Code.

2. The allegations against the petitioner are that she along with other supporters of a political party, in the process of showing their solidarity to a padayatra being conducted on 20.11.2021, had participated in a procession where various drums and other sound instruments were used to create huge sound. Apart from this, the said procession is said to have affected the movement of people. The complaint further states that none of the members of this procession including the petitioner were wearing masks and the same was in violation of the Covid-19 regulations in force at that time. The complaint is said to have been filed as the said procession was itself in violation of the directions of this Court and that the complaint is being filed on the directions of the higher authorities.

3. The petitioner has approached this Court by way of the present Criminal Petition to quash the said complaint.

4. Sri N.M. Muralidhar Rao, learned Senior Counsel appearing on behalf of Sri Nikhil Chowdary Guntupalli, learned counsel for the petitioner submits that the allegations in the said complaint do not make out a case against the petitioner. He would further submit that the complaint in relation to Section 188 of Indian Penal Code is not maintainable on account of the bar contained in Section 195 of Cr.P.C.

5. The learned Public Prosecutor would submit that the matter is still at the stage of investigation and it would only be appropriate to permit the said investigation to go on before any conclusion can be drawn on the facts involved in the case.

6. Section 188 of Indian Penal Code stipulates that violation of any direction or an order of a public authority would amount to an offence. However, Section 195 of Cr.P.C. mandates that a complaint in this regard can only be given by the authority who has issued the order or by an authority who is superior to the authority issuing the order. In the

present case, a complaint has been filed by the Sub-Inspector of Police and as such the bar under Section 195 of Cr.P.C would be applicable.

7. Accordingly, the complaint to the extent of Section 188 of Indian Penal Code would have to be quashed.

8. Sections 269 & 270 of Indian Penal Code relate to spread of disease by a person who is likely to spread infection of any disease. In the present case, there is no allegation that either the petitioner herein or any members of the procession under investigation, were suffering from Covid-19 and as such the provisions under Sections 269 & 270 of Indian Penal Code would not be available.

9. Section 271 states that any person who disobeys the rule made or promulgated by the Government for regulating the intercourse between places where an infectious disease prevails and other places would be an offence. In the present case, the complaint does not state anywhere that Covid-19 was endemic to one area and that the said procession would result in the said disease being spread to places where such disease was not prevalent.

10. For the aforesaid reasons, the complaint is to be quashed to the extent of the applicability of Sections 188, 269, 270 & 271 of Indian Penal Code. As far as offences under Sections 143 & 290 of Indian Penal Code are concerned, it would not be appropriate for this Court to express an opinion as the allegations made in relation to these offences require an investigation before any firm conclusion can be drawn in this regard.

11. Accordingly, this Criminal Petition is partly allowed to the extent of quashing Sections 188, 269, 270, 271 of Indian Penal Code in Crime No.264 of 2021 on the file of Kavali Rural Police Station, SPSR Nellore District against the petitioner.

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

R. RAGHUNANDAN RAO, J.

24.01.2023
BSM

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