

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.15822 of 2024

ORDER:

This criminal Petition is filed seeking the Court to quash the proceedings against the petitioner/accused No.8 in STC.No.811 of 2023 on the file of the learned Special Judicial Magistrate of Second Class, Kalwakurthy, registered for the offences punishable under Section 9(i) of the T.S. Gaming Act, 2017.

2. The brief facts of the case are that on 26.02.2023, at around 6:00 pm, respondent No.2 received credible information about illegal gambling activity near the Indian Gas Agency in Veldanda village. Along with his staff, he rushed to the scene and caught two individuals, Bokkala Srisailam and Basunamoni Srisailam, who were playing 3-card games with betting money. Eight others escaped. Upon inquiry, the two arrested individuals revealed their details and surrendered Rs. 3,900, two cell phones, and two Honda Shine bikes. Further investigation led to the seizure of Rs.7,800/-, 104 plastic playing cards, and six bikes. Two panchas,

Badhepally Mallaiah and Basunamoni Srinu, were summoned to witness the seizure and confession of the accused. A case was subsequently filed at the police station based on the panchanama.

3. Heard Sri K. Ajith Reddy, learned counsel representing Smt. V. Sanjana, learned counsel appearing on behalf of the petitioner as well as Sri E. Ganesh, learned Assistant Public Prosecutor appearing on behalf of the respondent - State.

4. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated as accused No.8 in the subject crime, which is a clear abuse of the process of law and that the charge sheet lacks specific allegations against the petitioner, and the three witnesses cited are all official witnesses. Furthermore, the investigation has yielded nothing but a panchanama with a confession from co-accused individuals. He further submitted that the petitioner is an innocent person with no prior criminal history, and the respondents have foisted a false case with vague allegations and that a cursory examination of the charge sheet reveals that there are no overt acts attributed to the petitioner, and the entire case rests on flimsy grounds. He contended that

the petitioner's livelihood as a private teacher is precarious, and they have significant family responsibilities. Subjecting him to a trial on fabricated charges would cause irreparable harm to his family members. Therefore, he prayed the Court to quash the proceedings against the petitioner by allowing this criminal petition.

5. On the other hand, learned Assistant Public Prosecutor opposed the submissions made by the learned counsel for the petitioner, stating that the scene of the offence is said to be located behind the Indian Gas Agency. Therefore, it cannot be concluded that it is not a public street. Whether it is a public street or a private place has to be decided by the trial Court after adducing evidence. Therefore, at this stage, the quashing of proceedings against the petitioner does not arise, and he prayed the Court to dismiss the criminal petition.

6. In light of the submissions made by both learned counsel and upon a perusal of the material available on record, the primary contention of the learned counsel for the petitioner is that the location in question is neither a public street nor a thoroughfare, nor is it an area of ingress or egress accessible to the public. According to the prosecution, the

alleged scene of the offence is situated behind the Indian Gas Agency, specifically within agricultural fields and behind the Indian Gas Godown.

7. It is noteworthy that the charge sheet filed by the police does not contain any allegation that villagers lodged complaints about the alleged gaming activity. Instead, the case was registered suo motu. The main allegation against the petitioner is that the accused were playing a game by betting, for which the case was registered under Section 9(1) of the Gaming Act.

8. Section 9(1) of the Gaming Act reads as follows:

“9. (1) Whoever is found gaming or reasonably suspected to be gaming in any public street or thoroughfare or in any place to which the public have, or are permitted to have access, shall be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to five thousand rupees, or with both.”

9. From the above provision, it is evident that when the Police register a case under Section 9(1) of the Gaming Act, they are required to prove that the alleged gaming occurred in a public street, thoroughfare, or a place accessible to the public. However, the prosecution has not established that the

location in question is a public place where inconvenience could be caused to the public. As such, the continuation of proceedings against the petitioner is nothing but abuse of the process of law and the same are liable to be quashed.

10. Accordingly, this Criminal Petition is allowed and the proceedings against the petitioner in STC.No.811 of 2023 on the file of the learned Special Judicial Magistrate of Second Class, Kalwakurthy, are hereby quashed.

Miscellaneous applications, if any pending, shall stand closed.

Date: 28.03.2025
SAI

K. SUJANA, J

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