

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: CrI.P. No.3292 of 2021

PROCEEDING SHEET

Sl. No	DATE	ORDER	Office Note
2.	28.09.2021	<u>CMR, J</u> Learned Additional Public Prosecutor takes notice for the 1st respondent/State and requests time to obtain instructions. Issue notice to the 2nd respondent returnable in four (4) weeks. _____ CMR, J <u>I.A.No.1 of 2021</u> The petitioners are A-1 and A-2 in Crime No.410 of 2021 of Patamata Police Station, Vijayawada City. A case under Sections 188, 269, 270 r/w 34 IPC, Section 51 of the Disaster Management Act, 2005 (for short 'DM Act') and under Section 3 of the Epidemic Diseases Act, 1897 (for short 'ED Act') was registered against the petitioners on the ground that on 29.05.2021 that they have convened a meeting in Novotel Hotel in contravention of the Covid guidelines, which are issued to prevent spread of Corona virus. Learned senior counsel for the petitioners would submit that no complaint in writing by the public servant, who issued the said Covid guidelines stating that the said guidelines are contravened by the petitioners was made and as such the bar under Section 195(1) Cr.P.C applies and the prosecution of the petitioners for the offence punishable under Section 188	

		IPC is not maintainable under law. As regards the offence punishable under Section 51 of the DM Act is concerned, he would contend that Section 51(a) of the DM Act makes it clear that only when there is obstruction by any person to any officer or employee of the Central Government or State Government or a person authorized by the National Authority or State Authority or District Authority in discharge of their functions under the said Act that the said offence would be constituted and even as per clause (b), where any person refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under the Act that the said offence would be constituted. He would contend that the contents of the F.I.R do not show that there was any obstruction to any officer as contemplated under this Act and as such no offence punishable under Section 51 of the DM Act is made out from the facts of the case. He would further contend that the G.O was issued imposing curfew i.e., G.O.RT.No.192, dated 04.05.2021, only for a period of two weeks i.e., from 05.05.2021 to 18.05.2021 and as the alleged meeting, according to the contents of the F.I.R, took place on 29.05.2021, the said G.O was not in force as on the alleged date of meeting. Therefore, he would submit that there was no violation of any directions or instructions issued by any competent authority. He would finally contend that as no offence whatsoever was made out from the facts of the case, that launching of criminal prosecution against the petitioners in the given facts and circumstances of the case amounts to abuse of process of Court. This Court finds considerable force in the	
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		aforesaid submissions made by learned senior counsel for the petitioners. The petitioners could make out a strong <i>prima facie</i> case warranting interference of this Court. So, the matter requires examination in the main Criminal Petition to ascertain whether the facts of the case constitute any offences punishable under Sections 188, 269, 270 r/w 34 IPC, Section 51 of the DM Act and under Section 3 of the ED Act or not and whether launching of criminal prosecution against the petitioners amount to abuse of process of Court or not. Therefore, in the said facts and circumstances of the case, there shall be interim stay of further proceedings pursuant to registration of F.I.R in Crime No.410 of 2021 of Patamata Police Station, Vijayawada City, including taking any coercive steps against the petitioners, till the next date of hearing. CMR, J AKN	
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