

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.10245 OF 2022

ORDER:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner-Accused No.3 seeking to quash the proceedings against him in C.C.No.281 of 2021 pending on the file of the Court of Judicial First Class Magistrate, Armoor.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent No.1 – State. Perused the record.

3. The case of the prosecution is that Accused No.1 visited the Uma Maheshwara Temple at Ummeda village and observed that there was no security in the temple. He informed the same to the Accused No.2 and both the accused Nos.1 and 2 approached accused No.3, who informed that temple was ancient and while constructing the temple gold and silver ornaments were kept underneath of Nandi temple. Believing the version of the petitioner-accused No.3, on 16.05.2022, accused Nos.1 and 2 dug the temple and on hearing certain noises of vehicles, they fled away. Again at

the instance of accused No.3, on 17.05.2022, accused Nos.1 and 2 went into the temple while the petitioner-accused No.3 was allegedly present on the bridge and watching the movements of the public near the temple premises. The petitioner-accused No.3 along with accused Nos.1 and 2 were caught by the villagers and handed over to the police. For which reason, the complaint was lodged and in pursuance to the investigation, charge sheet was filed under Section 448 of I.P.C., and Section 20 of Indian Treasure-Trove Act, 1878 (for short 'ITT Act').

4. Section 448 of I.P.C., is punishable when any act of trespass is committed. Admittedly, the petitioner was standing on the bridge as such the provisions of Section 448 of I.P.C are not attracted. To attract the offences under Section 20 of ITT Act, 1878, is any finder of treasure fails to give notice or deposit or give security required under Section 4 of the ITT Act., is punishable for one year. Any treasure found would vest with the government.

Section (20) of ITT Act, 1878 reads as follows:

"Penalty on finder failing to give notice, etc. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security, required by section 4, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Government, and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both."

5. As seen from the facts of the case at the instance of this petitioner, the accused Nos.1 and 2 allegedly dug in the temple, admittedly no treasure was found. When no treasure was found the question of attracting Section 20 of IIT Act, 1878 does not arise. For the said reasons, the proceedings against the petitioner-accused No.3 are liable to be quashed.

6. Accordingly, these Criminal Petition is allowed and the proceedings against the Petitioner-Accused No.3 in C.C.No.281 of 2021 pending on the file of the Court of Judicial First Class Magistrate, Armoor, are hereby be quashed..

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

Date: 20.12.2022
Gms

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