

**(2015) 01 AP CK 0041**

**In the Andhra Pradesh High Court**

**Case No : Criminal Petition No. 153 of 2015**

Kapu Ramachandra Reddy

APPELLANT

Vs

State of A.P.

RESPONDENT

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**Date of Decision : 28-01-2015**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 482  
Penal Code, 1860 (IPC) — Section 171-B, 171-E, 188

**Citation : (2015) 3 ALT(Cri) 396**

**Hon'ble Judges : U. Durga Prasad Rao, J.**

**Bench : Single Bench**

**Advocate : Rajesh Reddy, Counsel, for the Appellant**

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## **Judgement**

U. Durga Prasad Rao, J.—In this petition filed under Section 482 Cr.P.C., the petitioner/A.2 seeks quashment of the proceedings in C.C. No. 195 of 2014 (Crime No. 85 of 2014 of Rayadurg P.S.) on the file of Judicial First Class Magistrate, Rayadurg. On the complaint given by Tahsildar, Gummagatta alleging that when himself and other members of the flying squad were on duty in view of ensuing Municipal Elections, they received a credible information on the night of 20.03.2014 and accordingly when they proceeded to the house of A.2, they found her possessing in her house illegal dump of time pieces for distribution to the voters. On verification, they found that she possessed 47 card board boxes containing 68 time pieces in each box totaling 3196 pieces. When questioned, A.2 revealed that A.1 who was the Ex. MLA preserved those articles in her house for the purpose of distribution to the voters. Since their acts amounting to the violation of Election Code, the police after completion of investigation laid charge sheet against A.1 and A.2 for the offences under Section 171-E, 188 IPC and Section 123 of The Representation of Peoples Act (for short "R.P. Act").

2. Heard Sri C.V. Manohar Reddy, learned Senior Counsel representing Sri Rajesh Maddy, learned counsel for petitioner and Public Prosecution for State.

3. Opposing the charge sheet, learned Senior Counsel argued that petitioner/A. 1

was admittedly neither the contestant in Municipal Elections nor he was the agent for any of the contestants. Further, the card board boxes allegedly containing time pieces were not found in his house or in his possession and admittedly it was not the case of the prosecution that he was found distributing the watches. Except the alleged confession of co-accused, there is absolutely no tangible material in the charge sheet to sustain the charge either under Section 171-E IPC or 123 of R.P. Act. Therefore, the allegation of A.1 committing the acts of corrupt practices i.e. bribing the voters does not arise and continuation of the proceedings and driving him to face the ordeal of the trial will be nothing but an abuse of process of law. He thus prayed to quash the proceedings as against the petitioner/A.1.

4. Per contra, opposing the petition learned Public Prosecutor submitted that though the watches were not found with the personal possession of the petitioner/A.1 still they were found in the house of A.2 who is his henchmen and cook and further the watches contain his photos and therefore, it cannot be said that petitioner/A.1 had nothing to do with the offences alleged against him.

5. In the light of above rival submissions, the point for determination is:

"Whether there are merits in this petition to allow?"

6. POINT: The admitted facts in this case as can be culled out from the charge sheet are that the petitioner/A. 1 was not the contestant in Municipal Elections and he was not shown as agent of any of the contestants. Further, the card board boxes containing watches were not found in his house or in his possession. So A.1 is concerned, the prosecution mainly banks upon the alleged confessional statement of the co-accused--A.2. In this factual scenario when the definition of bribery given in Section 123 of R.P. Act is perused, the A.1 was admittedly not found in distributing the watches or possessing them and also that he was not the agent of any of the contestants and further it was not established that he was distributing the time pieces to the voters with the consent of any candidate. So even if the charge sheet allegations are accepted on the face value, I am afraid, they do not disclose the offence under Section 123 of R.P. Act. It must be said that the charge sheet allegations so far as A. 1 is concerned, do not disclose the act of bribery as defined under Section 171-B of IPC either. Admittedly A.1 was not found giving gratification to any other person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right. Similarly, he was not found accepting either for himself or any person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right. So none of the offences attributed will attract even if the prosecution case is admitted to be true. The confession of A.2--the co-accused cannot be taken as a basis to continue the impugned proceedings, which if allowed, in my view amount to abuse of process of law. In the result, this Criminal Petition is allowed and the proceedings in C.C. No. 195 of 2014 (Crime No. 85 of 2014 of Rayadurg P.S.) on the file of Judicial First Class Magistrate,

Rayadurg so far as petitioner/A.1 is concerned, are hereby quashed.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.