

(2010) 11 AP CK 0046

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 5938 of 2009

Killi Kruparani

APPELLANT

Vs

The State of A.P. and R.S. Raj Kumar, Returning Officer a/c
and A.R.O., No. 19 Parliamentary Constituency, and Spl.
Deputy Collector, B.R.R. Project

RESPONDENT

Date of Decision : 18-11-2010

Acts Referred:

Andhra Pradesh Prevention of Disfigurement of Open Places and Prohibition of Obscene and Objectionable and Advertisements Act, 1997 — Section 4

Citation : (2011) 1 ALD(Cri) 434 : (2011) 8 RCR(Criminal) 1781

Hon'ble Judges : Samudrala Govindarajulu, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Samudrala Govindarajulu, J.—The Petitioner is accused of offence punishable u/s 4 of the A.P. Prevention of Disfigurement of Open places and Prohibition of Obscene and Objectionable Posters and Advertisements Act, 1997 (in short "the Act") in CC No. 47 of 2009 on the file of Judicial Magistrate of the First Class, Narasannapeta.

2. The Petitioner contested as a candidate for No. 19 Srikakulam Parliamentary Constituency during the elections of the year 2009. It is stated that the Petitioner was the successful candidate in that election.

3. It is the prosecution case that on 30-3-2009 morning Dharmana Krihsnadas, who was the contesting candidate for Narasannapeta Assembly Constituency took procession along with his supporters for filling nomination and that Narasannapeta Assembly Constituency was part of Srikakulam Parliamentary Constituency and that the accused also followed with the procession and that at about 12 noon, 108 ambulance of Santhabommali Mandal came to Narasannapet with a patient and reached main road and that there was traffic jam due to the crowd and that in the meanwhile some of the supporters of the accused pasted

her poster on the back doors of the said ambulance. Thus, admittedly, it is not the accused who pasted the poster on back door of the ambulance nor the poster was pasted on her direction. Without catching the person pasted the poster on the ambulance, the police by sitting pretty in their police station, have chosen to file this criminal case against the contesting candidate who even according to them, was not the person who pasted the poster.

4. Section 4 of the Act reads as follows:

Section 4. Penalty for unauthorised disfigurement by advertisements: whoever affixes to, or inscribes or exhibits on anyplace open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees, or with both.

5. From the language employed in Section 4 of the Act, penal liability is attached to the person, who affixed or inscribes or exhibits any advertisement etc., and not to any others. In any elections particularly general allegations, several political parties contest the elections and some of their workers may paste posters containing photos and names of state and national leaders whether alive or no more. That will not clothe the police with right to prosecute those persons whose photos or names appeared in the posters in case those leaders are alive. I have absolutely no doubt in my mind that the prosecution launched in this case against the Petitioner is sheer abuse of process of law.

6. In the result, the criminal petition is allowed quashing proceedings in CC No. 47 of 2009 on the file of Judicial Magistrate of the First Class, Narasannapeta.