

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.14247 of 2014

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioners/A.2 and A.3 in C.C.No.440 of 2014 on the file of the learned Judicial Magistrate of First Class, Tandur, Ranga Reddy District, to quash the proceedings in said case.

2. Heard the learned counsel for the petitioners/A.2 and A.3 so also the learned Public Prosecutor representing State-1st respondent and perused the material on record including interim order dated 01.12.2014 granted dispensed with the presence of the accused in C.C.No.440 of 2014 before the trial Court. Notice ordered to the 2nd respondent-defacto complainant by personal service sent by registered post, dated 15.12.2014 and proof to that effect filed in CFR 3531/2015 dated 16.12.2014, but so far did not appear.

3.The petitioners did not file the part-II C.D. No doubt, from perusal of the First Information Report and chargesheet filed by the police, it discloses the alleged occurrence was dated 23.11.2013 at about 2.00 P.M., of Karankole police station, within 6 K.Ms. west to the place of occurrence at Belkatur village and the report given by the defacto-complainant supra was dated 14.12.2003 registered as Cr.No.187 of 2013 to say more than 21 days after the alleged occurrence and there is no explanation from the First Information Report for the delay in reporting. In fact, it is not the quash of First Information Report but of the post-investigation final report that was taken cognizance by the learned Magistrate. On perusal of the part-II C.D. and the statements of L.Ws.5 and 6 eye witnesses apart from other witnesses L.Ws. 2 to 4 and the L.W.1 defacto-complainant particularly from any statement of defacto complainant as to any explanation is material as stated supra part-II C.D. not filed. Needless to say in the absence of material explanation, the delay is fatal in the

factual scenario.

4. Having regard to the above, as the material falls short for this Court to quash the proceedings under Section 482 of Cr.P.C. before admission, the Criminal Petition is disposed of giving liberty to the petitioners to file an application under Section 258 of Cr.P.C. for the offences are punishable upto two years as a summons case, for nothing to show part-II of Section 506 attracts of she was intimidated of life threat or an assault much less any of the so called accused armed with any weapons or even attempted to manhandle her but for saying with intimidation to withdraw the case filed by her against them earlier in Cr.No.79 of 2013 under Section 498-A of I.P.C. Needless to say the learned Magistrate in the event of their filing such application to decide on merits from the prosecution material. Further, the learned Magistrate, in the event of filing any application by the petitioners, shall permit A.1 to represent the others on behalf of all under Rule 37 of Criminal Rules of Practice with necessary conditions unless personal appearance is required for any particular adjournment.

5. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:17.07.2015

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