

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.7059 of 2015

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/accused to quash the proceedings (chargesheet) in C.C.No.32 of 2015 on the file of the Judicial Magistrate of First Class, at Atmakur, Kurnool district, taken cognizance for the offence punishable under Section 354(D) (i)(ii) IPC on the complaint of the 2nd respondent/defacto-complainant.

2. Heard the learned counsel for the petitioner so also the learned Public Prosecutor representing State-1st respondent before admission and before notice to the 2nd respondent-defacto-complainant and perused the material on record.

3. The petitioner contends that the report received and crime registered by the police on 11.06.2013 whereas, on that day there is another crime registered by the same police for the alleged occurrence on 08.06.2013 for the offences 323,324 and 506 read with 34 of I.P.C. and under Section 3(1)(x) of the Scheduled Tribes and Scheduled Caste(POA) Act(for short, 'the Act') against the accused therein namely Srinivasa Reddy, Mohan, Gadda Raj Kumar, Gadda Uday and Sucharitha on the report of the accused-petitioner herein and it is a counterblast to the same and the version of L.W.4, resident of Saibabapeta, Nandikotkur town 50 K.Ms. away of from the place of occurrence during investigation by police, not believable being a chance witness of alleged occurrence and it is also supports the contention of false case foisted as a counterblast to Cr.No.58 of 2013 (the present crime is 30 of 2013) registered by Bandhi Atmakur police and thereby the proceedings in C.C.No.32 of 2015 are liable to be quashed.

4. It is the case to be decided by the trial Court whether there is any accusation where the L.W.4 is a chance witness to the occurrence or whether he is a real witness, for there is no law to presume a person of 50 K.Ms. away to the occurrence could not be there. Whether it is a counterblast to the case or real occurrence taken place is also a matter to be appreciated from the evidence on record at trial.

5. Having regard to the above, as the material falls short for this Court to admit the petition to quash the proceedings in C.C.No.32 of 2015 on the file of the Judicial Magistrate of First Class, at Atmakur, Kurnool district, the **Criminal Petition is**

disposed of without causing prejudice to the other rights, if any, available to the petitioner before the trial Court. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 28.08.2015

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