

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7047 of 2015

ORDER :

This Criminal Petition is filed by the Petitioners/ accused Nos.1 to 4 under Section 482 Cr.P.C seeking to quash the C.C. No.288 of 2014 on the file of Judicial First Class Magistrate, Alamuru, East Godavari District, where the learned Magistrate has taken cognizance for the offences under Sections 447, 432, 323, 506 r/w 34 IPC, out of the report of 2nd respondent—de facto complainant in Crime No.81 of 2012 of Angara Police Station, East Godavari District against the petitioners/ accused.

2) Heard learned counsel for the petitioners/ accused Nos.1 to 4 and also 1st respondent—State represented by learned Public Prosecutor before admission and before ordering notice to 2nd respondent—de facto complainant. Perused the material on record.

3) It is the contention of the learned counsel for the petitioners that the 2nd respondent—de facto complainant filed a private complaint that was referred to police for investigation by the learned Magistrate and police, having registered the crime for the offences supra. filed final report referring the case and on the protest petition filed by de facto complainant supra. After recording the sworn statement of de facto complainant and another witness, learned Magistrate has taken cognizance for the offences supra and the other contention is that the protest petition or the private complaint is served as counter blast to the Crime No.69/ 2012 registered against the de facto complainant herein and his mother by name Valluri Bhanumathi on the report of the accused No.3 herein for the alleged incidence that de facto complainant and her mother while digging drainage in front of her house and tried to stab the father of accused No.3 herein with crowbar, the accused No.3 herein obstructed the de facto complainant and her mother and tried to rescue her father, but the de facto complainant beat the accused No.3 herein with crowbar over her head. The police after investigation filed final report in the form of charge sheet for the offences under Sections 324, 323 r/w 34 IPC. It is there

from the submission of the learned counsel for the petitioners that it is a false case foisted against petitioners to serve as a counter blast as Crime No.488 of 2012 referred supra.

4) Whereas it is the submission by the learned public prosecutor that both are independent and those are nothing but case and counter case as in both the matters, the offence proper is in front of the house of both parties at the drainage for the alleged closure and the attempt opening of the drainage was the occurrence taken place, thereby both are tried together and there is nothing to interfere.

5) A perusal of the material in fact calls short admit the application to quash the proceedings of C.C. No.288 of 2014 but for to say in both the matters trial is conducted simultaneously as one is based on police final report and the other is a private complaint case procedure, which is present one. Thus, subject to the above, the application is disposed of giving liberty to submit any arguments under Section 245 Cr.P.C from the recording of pre-charges evidence of the complainant and witnesses before framing charges, if no material to frame charge for the learned Magistrate to consider on own merits vide ***Debendranadh Padhi vs. State of Orissa***. Needless to say in the event of filing any application under Rule 37 Cr.R.P for one of the accused to represent others and the learned Magistrate shall consider the same with necessary conditions.

6) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.12.08.2015
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:12.08.2015

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