

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.722 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioners/A2 and A7 seek to quash the proceedings in C.C.No.340 of 2014 on the file of learned Additional Judicial First Class Magistrate, Narasaraopet, Guntur District.

2) Heard.

3) Seeking quashment, learned counsel for petitioners/A2 and A7 would submit that while filing charge sheet the Investigating Officer (IO) has clearly mentioned that no *prima facie* case was established against A2 and A7 and accordingly filed charge sheet against other accused only i.e. A1, A3 to A6 and A8 to A13 in Cr.No.91 of 2014. He further submitted that while taking charge sheet the trial Court inadvertently took cognizance against all the accused including the petitioners/A2 and A7 though there is no *prima facie* material against them and IO specifically mentioned that fact in the charge sheet. He thus prayed to quash the proceedings against A2 and A7 in C.C.No.340 of 2014.

4) Learned Additional Prosecutor admitted the above fact.

5) In the light of above arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

6 a) **POINT**: Charge sheet reads that the accused and complainant and other witnesses belong to Pamidipadu village in Narasaraopet Mandal. All the accused belong to Telugu Desam Party whereas L.Ws.1 to 6 originally belong to Congress Party and recently changed to YSR Congress Party. The allegation is on 19.04.2014 the accused while returning from Narasaraopet after attending nomination of BJP candidate at about 8 PM, when they reached their village they saw L.Ws.1 to 6 and some others chitchatting about assembly elections and on seeing them, due to party feelings the accused attacked them

with sticks, iron rods and axes and beat them.

b) When filing charge sheet the IO has specifically mentioned that no *prima facie* case was established against A2 and A7. However, the learned Magistrate took cognizance against all the accused including A2 and A7. As rightly pointed by learned counsel for petitioners, it appears that learned Magistrate has inadvertently took cognizance against A2 and A7. A perusal of 161 Cr.P.C. statements of L.Ws.1 to 8 would show that all of them unequivocally stated that A2 and A7 were not present and they had nothing to do with the present crime. In view of their statements, the IO omitted to mention the names of A2 and A7 in the charge sheet. In view of it, the proceedings against petitioners/A2 and A7 are liable to be quashed.

7) In the result, this Criminal petition is allowed and the proceedings in C.C.No.340 of 2014 on the file of I Additional JFCM, Narasaraopet, Guntur District are quashed against A2—Boppudi Chalapathi Rao and A7—Popuri Venu are concerned.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 07.04.2015

Murthy