

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16474 of 2016

ORDER

This petition under Section 482 Cr.P.C., is filed by the petitioners/accused to quash the proceedings in P.R.C.No.5 of 2016 on the file of Special Judicial First Class Magistrate of Excise, Ongole, in connection with Cr.No.121 of 2015 of Chimakurthi Police Station, Prakasham District, registered for the offences under Sections 147, 148, 307, 324, 326, read with Section 149 IPC, against them.

2. The petitioners raised several contentions. One among them is that the petitioners lodged a complaint with the police and the same was registered as Cr.No.122 of 2015, but the police did not conduct investigation till today. However, in the present complaint lodged by second respondent, the investigating agency has completed investigation and filed charge sheet before the Court and it is at the stage of committal on the file of Special Judicial First Class Magistrate of Excise, Ongole. Therefore, if the matter is committed to the Court of Session and trial is completed, much prejudice would be caused to the petitioners since the counter case is not investigated and no steps were taken till today and prays to quash the proceedings.

3. As seen from the record, two complaints were lodged and the same were registered in Cr.Nos.121 and 122 of 2015 by the same police and that the police are normally expected to investigation into the alleged offences and file final report before the concerned

Magistrate, but curiously, the police completed investigation in the complaint lodged by second respondent in Cr.No.121 of 2015 and no steps were taken to investigate into Cr.No.122 of 2015 of the same Police Station and till today, the investigation is pending. Undoubtedly, if the matter went on trial after committal before the Sessions Court, much prejudice would be caused to petitioners and they will have no chance of proving their case and the Court will have no opportunity to decide the person, who is aggressor in case and counter case. But, however, while exercising jurisdiction under Section 482 Cr.P.C., on the ground of failure of police to investigate into the offence in Cr.No.122 of 2015, proceedings in PRC No.5 of 2016 on the file of Special Judicial First Class Magistrate of Excise, Ongole, cannot be quashed. Hence, petitioners are at liberty to challenge the inaction of police in Cr.No.122 of 2015 of Chimakurthi Police Station, Prakasham District, in appropriate proceedings seeking a direction to complete investigation and file a final report.

4. Granting leave to the petitioners as stated above, the Criminal Petition is disposed of. Miscellaneous petitions, if any, pending in these criminal petitions shall stand closed.

M. SATYANARAYANA MURTHY, J

2nd December, 2016

sj