

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

CRIMINAL PETITION No.2941 of 2013

ORDER :

In this criminal petition filed under Section 482 Cr.P.C., the petitioner/accused seeks to quash the proceedings in C.C.No.536 of 2012 on the file of Additional Judicial Magistrate of First Class, Adoni, Kurnool District.

2. The 2nd respondent/complainant is arrayed as accused No.4 in Crime No.13 of 2012 of Isvi P.S. along with others for the offences under Sections 341, 323, 324, 506, 394 r/w.34 of IPC. As per the remand report dated 13.03.2012 in Crime No.13 of 2012 submitted by the petitioner in the capacity of Inspector of Police, Adoni Rural Circle to the learned Judicial Magistrate of First Class, Adoni, on 13.03.2012, while he was present in the Police Station, received information against A4 and immediately, he along with his staff and S.I., went to Adoni bus stop at 10 a.m., found A4 and surrounded him and after interrogation, arrested him and explained him the grounds of arrest and brought him to the Circle office at 10.30 hours and as the investigation was not completed, forwarded the accused to the Court for Judicial custody. In the said remand report, he requested the learned Magistrate to remand A4 for Judicial custody for a period of 15 days. So, according to the remand report, the present petitioner arrested the 2nd

respondent/complainant (A4) in Crime No.13 of 2012 only on 13.03.2012 and produced him before the Magistrate for remand on the very same day.

3. However, the 2nd respondent/complainant filed a complaint dated 13.03.2012 before the Judicial First Class Magistrate, Adoni, alleging that on 10.03.2012 (Saturday), at about 6.30 p.m., two Police Constables came and took him on a two wheeler to Taluk Police Station and kept him there. On this complaint, the learned Magistrate recorded his sworn statement and as per the docket order dated 05.10.2012, took cognizance of the case against the present petitioner being the then Inspector of Police, Taluk P.S., Adoni, for the offence under Section 342 of IPC and issued summons. Hence, the instant petition by the petitioner seeking quashment of the proceedings.

4. Learned counsel for petitioner submitted that the complaint is not maintainable for varied reasons; firstly, in the complaint petition, the 2nd respondent has not specifically made any grievance against the present petitioner as responsible for his illegal detention and secondly, even if for argument sake the petitioner is held responsible for causing the illegal custody of the 2nd respondent, still, no prosecution can be maintainable against him without following the procedure under Section 197 Cr.P.C. Learned counsel denied the allegation that

the petitioner took the 2nd respondent into custody on 10.03.2012 itself. Thus, prayed to quash the proceedings.

5. The point for determination is whether the petition can be allowed.

6. As can be seen from the remand report dated 13.03.2012, the 2nd respondent was arrested on 13.03.2012 and produced before the learned Magistrate, Adoni on the very same day. However, as per the complaint of the 2nd respondent dated 13.03.2012, he was taken into custody on the evening of 10.03.2012 itself. The truth of the allegations cannot be decided in this quash petition. Therefore, the petitioner is directed to face the trial and vindicate his stand. As it is represented that now he is in service, the presence of the petitioner/accused in C.C.No.536 of 2012 before the Additional Judicial Magistrate of First Class, Adoni, is dispensed with except on the occasions when the trial Court specifically requires his attendance.

7. Petition is dismissed accordingly.

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

U. DURGA PRASAD RAO, J

6th April 2016

ajr