

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16650 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in Cr.No.239 of 2016 of Banaganapalli Police Station, Kurnool District, registered against the petitioners for the offence punishable under Section 323 and 509 read with Section 34 of Indian Penal Code, 1860 (for short 'I.P.C.').

The contention of the petitioners is that they lodged a complaint against the second respondent herein, but the police did not register the same despite the order passed by this Court in W.P. No.33720 of 2016, on the other hand the second respondent lodged a complaint against the petitioners as a counter blast, that apart petitioner No.5 herein is prosecuting second year degree and attended to III semester public examinations in college on 22.11.2016 from 9.00 A.M. to 12.00 A.M. and produced the Certificate dated 03.12.2016 issued by the Principal, S.V. Degree College, Banaganapalle, to prove his absence at the alleged place of occurrence.

But it is a disputed question of fact relevant under Section 11 of Indian Evidence Act, 1872, to be decided during trial only, While deciding the petition filed under Section 482 of Cr.P.C., this court need not go into the disputed questions of fact.

However, the offence allegedly committed by the petitioner is bailable offence and taking into consideration of the facts and circumstances of the case, more particularly, the requirement of petitioner No.5 to appear for the examination, the police,

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Banaganapalli Police Station, are directed to follow the procedure prescribed under Section 41-A of Cr.P.C. and the guidelines laid down by the Apex Court in **Arnesh Kumar v. State of Bihar**¹, before effecting the arrest of the petitioners.

With the above direction, the criminal petition is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 08.12.2016
BV



¹ 2014(2) ALT (Cri.) 457 (SC)