

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.715 of 2017

ORDER :

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') by the sole petitioner requesting to invoke the extraordinary power to quash the proceedings in S.C.No.46 of 2015 on the file of the I-Additional Senior Civil Judge, Kakinada, East Godavari District. The petitioner alleged to have committed the offence punishable under Section 307 IPC.

2. Heard T.Singiah Goud, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

3. The learned counsel for the petitioner would submit that the present Sessions Case is a counter blast to the complaint lodged by the petitioner herein on 15.06.2014 in relation to an incident that had taken place on 14.06.2014 in the Church premises when the accused numbering 10 at about 9.00 p.m. went to the Church and demanded the petitioner herein to stop the mike and prayers and in the said altercation, the petitioner was alleged to have been attacked by them with sticks indiscriminately and he sustained bleeding injuries and even his fingers were fractured besides a cut injury on his face and on his complaint, the Station House Officer, Gollapalem Police Station, has registered a case in Crime No.53 of 2014 for the offence

punishable under Section 324 read with 34 IPC. The learned counsel would further submit that the petitioner was not served with any notice as to the closure of the said crime.

4. It is also his submission that the petitioner herein, in regard to the very same incident, has lodged a private complaint in C.C.(S.R.).No.4797 of 2016 on the file of the III-Additional Judicial First Class Magistrate, Kakinada, under Section 190 Cr.P.C. and the sworn statement of the petitioner herein was also recorded including the other witnesses and it was posted for consideration. But, however, till filing of the present petition, there was no order of taking cognizance by the learned III-Additional Judicial First Class Magistrate, Kakinada.

5. The learned counsel would submit that it is just learnt that the learned III-Additional Judicial First Class Magistrate, Kakinada, has taken cognizance and assigned calendar case number, but the relevant particulars are not available with him.

6. It is further submitted that since both the parties have filed complaints and one is registered as S.C.No.46 of 2015 against the petitioner herein and the other which is assigned calendar case recently and incase trial takes place in S.C.No.46 of 2015, the present calendar case shall be tried along with S.C.No.46 of 2015. Not only on the ground that there is sessions case foisted against the petitioner, the learned counsel for the petitioner sought to quash the proceedings

in the said sessions case but alternatively requests to transfer the case pending before the learned III-Additional Judicial First Class Magistrate, Kakinada to the Court of Assistant Sessions Judge, Kakinada. The learned counsel would further submit that since the calendar case was at S.R. stage, he could not make such a request before the Sessions Court.

7. Learned Additional Public Prosecutor would strongly resist the request.

8. At the out set, it is to be stated that certainly, it is not a fit case to exercise the power under Section 482 of Cr.P.C. to quash the proceedings in S.C.No.46 of 2015. The truth or otherwise in the submissions made by the learned counsel for the petitioner basing on the complaint lodged by the petitioner herein require a thorough analysis, which can be done during trial in S.C.No.46 of 2015.

9. So far as the other request is concerned for withdrawing the calendar case, which is at C.C.(S.R.) stage when the present petition was filed, the relevant details have not been furnished even now. Therefore, that request also cannot be acceded to. However, it is left open to the petitioner to seek appropriate relief before the Sessions Court so far as withdrawal and transfer of the complaint, which he filed and calendar case number is said to have assigned by the concerned learned Magistrate, in case the calendar case number is assigned by the learned Magistrate.

10. Accordingly, the criminal petition is dismissed at the admission stage.

11. Miscellaneous petitions pending, if any, shall stand dismissed.

A. SHANKAR NARAYANA, J

1st February 2017.

Note:

Issue C.C. by tomorrow.

(b/o)
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