

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2695 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the proceedings in C.C.No.494 of 2015 on the file of Judicial Magistrate of First Class, Vikarabad, erstwhile Ranga Reddy District.

2. Petitioners are arraigned as accused Nos.1 to 7 in the aforesaid Calendar Case. They alleged to have committed the offence punishable under Section 324 read with 34 I.P.C.

3. Heard Sri Shaik Jilani, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Telangana.

4. The main submission of the learned counsel for petitioners is that in regard to the very same incident occurring in the present complaint, petitioner No.1 has filed a complaint with the very same Station House Officer against respondent No.2 – *de facto* complainant and others, and the same was registered as Crime No.94 of 2015 for the offence punishable under Section 324 read with 34 I.P.C., and the learned Judicial Magistrate of First Class, Vikarabad, has taken cognizance of the same in C.C.No.493 of 2015, and hence, as a counter blast to the same, the present complaint was filed by respondent No.2, which is registered as Crime No.95 of 2015.

Learned counsel would also submit that both the Calendar Cases are pending before one and the same Court.

5. A perusal of the charge sheet averments herein would show that the Medical Officer by name Dr. V. Raju, Duty Doctor, C.H.C. Marpally, who examined the injured, is cited as one of the witnesses i.e., LW.8. In such an event, it cannot be said that conducting trial in the present Calendar Case would amount to the abuse of process of law. Even otherwise, in a situation like this, the trial Court has to decide as to which of the two parties is the aggressor, and whether the allegations made in the respective complaints are substantiated in proving the offence alleged against the parties, respectively. Therefore, it is not a case for quashing the proceedings.

6. At this stage, learned counsel for the petitioners would submit that petitioner No.7 is old aged and it would be difficult for her to make appearance before the Court below on every date of hearing, more particularly, the parties are interrelated and hence, her presence may be dispensed with during trial of C.C.No.494 of 2015.

7. A perusal of the cause title would show that petitioner No.7 viz., Smt. Thyasa Begum, is 61 years old. There is every reason for exempting her presence during trial and to that extent, the request is acceded to exempting the presence of petitioner No.7 viz., Smt. Thyasa Begum during trial of C.C.No.494 of 2015 on the file of Judicial Magistrate of First Class, Vikarabad, except on the dates when she is

required to be examined under Section 239 of the Code and under Section 313 of the Code, and on other occasions where the learned Magistrate opines that her presence is necessary.

8. With the above direction, the present Criminal Petition is disposed of. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

April 06, 2017.
MD

