

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.2138 of 2017

ORDER:

This petition is filed for quash of proceedings in C.C.No.66 of 2016 on the file of Judicial First Class Magistrate, Alamuru.

Heard learned counsel for petitioners. Learned Public Prosecutor takes notice for the third respondent. Both of them agree to dispose of the matter at the stage of admission.

Learned counsel for the petitioners initially submits that the complaint is filed beyond the limitation period and he draws the attention of this Court to Section 199(5) Cr.P.C. But, the said clause does not apply to this case as it prescribes limitation only for the complaints which are filed under Section 199(2) Cr.P.C. Then, the petitioners' counsel raises contentions on the facts of the case and pleads that the petitioners/accused are innocent. But, in my considered opinion, all those aspects have to be gone into and only after trial, truth can be culled out, and *prima facie*, the complaint would nevertheless discloses the offences alleged against the petitioners. When such is the case, the powers under Section 482 Cr.P.C. cannot be invoked, and the petitioners are at liberty to file a discharge petition with all the pleas that are raised

in this petition. The plea of the petitioners to dispense with their presence before the Court below can be considered and the Court below is directed not to insist on the presence of the petitioners unless it is required in the proceedings of the case till disposal of the discharge petition and the petitioners shall file discharge petition within two weeks from the date of receipt of this order, failing which, the Court below can proceed with the case as usual.

With the above observations, the Criminal Petition is disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

26th OCTOBER, 2017.

SMT. T. RAJANI, J

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