

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.1275 of 2017

ORDER:

Heard Sri Ch.C.Krishna Reddy, learned counsel for the petitioners/Accused Nos.10 to 12, and the learned Additional Public Prosecutor for the State of Andhra Pradesh on behalf of respondent No.1.

Though, the relief sought for in the present petition laid under Section 482 of the Code of Criminal Procedure (Code) is to quash the proceedings in Crime No.1 of 2017 of Udayagiri Police Station, SPSR Nellore District, and the consequential proceedings of the Revenue Divisional Officer and Sub-Divisional Magistrate, Atmakur, in M.C.No.1 of 2017 dated 07.01.2017, at the hearing, the learned counsel for the petitioners seeks permission not pressing the claim of quashing the consequential proceedings dated 07.01.2017 in M.C.No.1 of 2017.

Permission as sought for is granted.

Now, what remains to be seen is whether the concerned Station House Officer is competent to issue the First Information Report when the proceedings initiated relate to Section 107 of the Code.

Learned counsel for the petitioners would draw the attention of this Court to an elaborate order passed by this Court in Criminal Petition

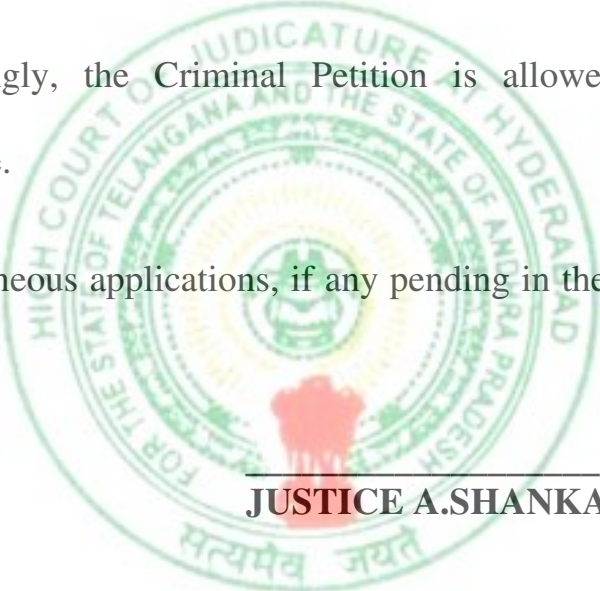
No.14771 of 2016, in which a similar situation did occur. Learned counsel would further submit that in the said petition, this Court passed an elaborate order on 20.10.2016, wherein the provisions of Section 107 of Cr.P.C was extracted and it was held that Section 107 Cr.P.C is not penal provision to punish the persons who breached peace and disturbed public tranquility and the security proceedings are not punitive, but are preventive as held in 1968 M.L.J (Cri) 451. In the said order, it is observed that the question of registering First Information Report by police when the offence is not cognizable and if it is not punitive but is preventive, does not arise and, as such, quashed the proceedings in Crime No.60 of 2016 holding the same as illegal. In that case also, initially, the claim of quashing the consequential proceedings dated 13.09.2016 in M.C.No.4 of 2016 of the Revenue Divisional Officer and Sub-Divisional Magistrate, Atmakur, Nellore District, was sought, but, during the course of hearing, learned counsel for the petitioners therein not pressed that claim and endorsed the same on the docket of the petition.

One thing which could not be understood is, having knowledge of the aforesaid order, in which the claim of quashing the consequential proceedings was not pressed by the learned counsel for the petitioners therein at the time of hearing, it is really strange why the petitioners herein have come up with a similar claim of quashing the consequential

proceedings issued by the Revenue Divisional Officer and Sub-Divisional Magistrate concerned, and again, at the stage of hearing, seeking permission to not press the said claim. Be that as it may, since permission is granted for not pressing the claim of quashing the consequential proceedings in M.C.No.1 of 2017 dated 07.01.2017, and in view of the order already passed by this Court referred to above in similar circumstances, the proceedings in Crime No.1 of 2017 of P.S.Udayagiri, SPSR Nellore District, against the petitioners are quashed.

Accordingly, the Criminal Petition is allowed to the extent indicated above.

Miscellaneous applications, if any pending in the present petition, stand closed.



JUSTICE A.SHANKAR NARAYANA

15.02.2017

v v