

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1456 OF 2017

ORDER:

The present Criminal Petition is filed by accused Nos.1 to 4 respectively, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), requesting to quash the First Information Report in Crime No.139 of 2016 of Nandivargam Police Station, Kurnool District.

2. The petitioners alleged to have committed the offence punishable under Section 307 read with 34 IPC.

3. Sri Challa Siva Sankar, learned counsel for the petitioners, would plead the innocence and false implication of the petitioners. His main submission has been that, this Court while granting anticipatory bail under Section 438 of the Code to the petitioners herein, by an order, dated 04.01.2017, observed that since there were no injuries caused to anyone, it seems that the *de facto* complainant filed a false complaint against the petitioners just to take revenge; and therefore, seeks to quash the proceedings as nothing-else is required to examine the issue.

i) Of course, he submits that the *de facto* complainant, who is respondent No.2 herein, abused the process of law by filing the aforesaid complaint as a counterblast to FIR Nos.94 of 2016 and 100 of 2016, which are registered against *de facto* complainant and his

associates which have arisen in connection with the election to the Management of a religious institution “Sri Anjaneya Swamy Temple”.

ii) The learned Counsel has also placed reliance on the decisions in **Sagayam v. State of Karnataka**¹, **Sakunala Mangeswara Rao v. K. Subba Rao**², **R. Prakash v. State of Karnataka**³ and **Padmati Venkata Sundara Rao v. State of A.P.**⁴ to support his argument that there must be injuries to clutch the offence punishable under Section 307 of I.P.C.

4. The learned Additional Public Prosecutor for the State of Andhra Pradesh would strongly resist the request.

5. Perused the complaint averments; the aforesaid two FIRs and the order, dated 04.01.2017, passed by a learned Single Judge of this Court in granting anticipatory bail to accused Nos.3 and 4 in Criminal Petition No.17247 of 2016. For proper comprehension of the said order, it is imperative to extract paragraph No.5, which is thus:

“It is admitted fact that there are F.I.R. No.94 of 2016 and F.I.R. No.100 of 2016 registered against the *de facto* complainant and his associates. There are no injuries caused to anyone. Therefore, it seems that the *de facto* complainant filed a false complaint against the petitioners just to take revenge. However, without commenting on the

¹ AIR 2000 SC 2161

² 2003 (1) ALT (Crl.) 434 (A.P.)

³ AIR 2004 SC 1812

⁴ 2006 CRI. L. J. 2168

role of the petitioners, which is the subject matter of the investigation, I am of the opinion, the petitioners are entitled for anticipatory bail.”

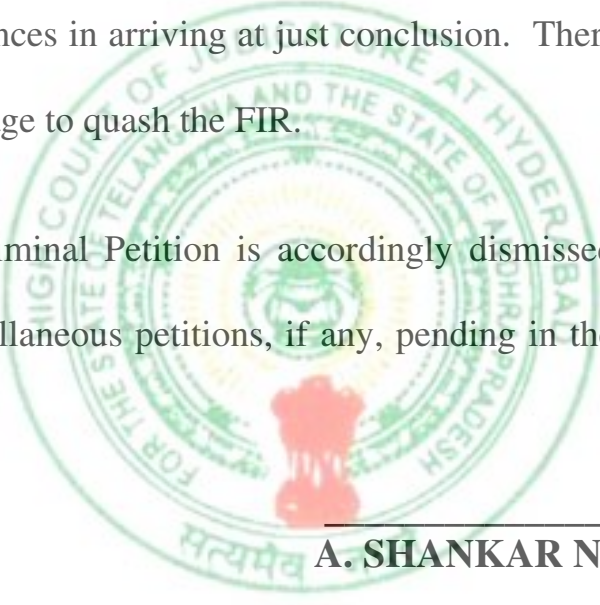
This Court, no doubt, expressed the above view while deciding the anticipatory application, that too, while granting anticipatory bail. Such a view, of course, may not bind the main proceeding, but, still, it is not stopped at that stage and the last of the observations also requires consideration which cannot be scored out. The said observation would clearly indicate that the role of the petitioners is the subject matter of investigation. Thus, even going to the extent of viewing that this Court expressed such a view, while granting anticipatory bail, but, however, still, expressed that the matter requires investigation touching whether the *de facto* complainant filed a false complaint against the petitioners just to take revenge.

6. In fact, in **R. Prakash** (3 supra) the Hon’ble Supreme Court has expressed the view that infliction of bodily injury capable of causing death, not always necessary while dealing with the offence punishable under Section 307 of I.P.C. The other cases were rendered at the stage of quashing proceedings under Section 482 of Cr.P.C. where when the appeals came up for hearing.

7. Now, turning to the present case, when there is specific observation of this Court in pre-arrest bail order referred to in the above that whether 307 of IPC would be inferred or not is subject to

investigation, at this state, nothing can be expressed whether or not the allegations available would attract the offence under Section 307 of IPC. In case the investigating officer, from the evidence collected, would arrive at a view holding that Section 307 IPC would not be attracted, it is open for the investigating officer to express such an opinion and file a report. In such an event, certainly, it cannot be said that it is nothing but abuse of process of law to allow the investigation to go on. The truth will be unravelled when Investigating Officer collects evidences in arriving at just conclusion. Therefore, it is not a case at this stage to quash the FIR.

The Criminal Petition is accordingly dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.



A. SHANKAR NARAYANA, J

March 01, 2017.

Mgr/GBS