

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.604 OF 2017

ORDR:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') requesting to quash the proceedings in P.R.C. No.44 of 2016 on the file of the I Additional Judicial Magistrate of First Class, Huzurabad, Karimnagar District, State of Telangana.

2. The petitioner herein is arraigned as sole accused in the Case. He alleged to have committed the offences punishable under Sections 290 and 506 of Indian Penal Code, 1860 (for short 'IPC') and Sections 3 (1) (r) (s) and 3 (2) (va) of the Scheduled Castes and the Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. Heard Sri R.K. Suri, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel would plead innocence and false implication of the petitioner. According to him, it is purely a civil dispute and respondent No.2 herein, who is *de facto* complainant, filed a false case against the petitioner so as to dictate terms to the petitioner. The learned counsel also would submit that the complaint allegations are to the effect that while the *de facto* complainant was carrying out developmental works in his plot, measuring 242 square yards in Survey No.2367/B, situated at Huzurabad, Karimnagar

District, along with his workers, the petitioner herein alleged to have entered into the said plot and threatened with dire consequences and scolded him by using his caste name, thus, they indicate a land dispute between them and using caste name is only added in the complaint to falsely implicate the petitioner herein. The learned counsel would further submit that even prior to the complaint lodged by the *de facto* complainant herein at 8.00 pm on 06.05.2016, the petitioner already lodged a complaint registered in FIR No.122 of 2016 at 6.00 p.m. on 06.05.2016 against respondent No.2 - *de facto* complainant for the offences punishable under Sections 447, 290, 427 and 506 read with 34 IPC, but the police without verifying the same, which was already registered, and without verifying the genuineness or otherwise of the allegations in the complaint given by respondent No.2 falsely, and erroneously registered the present crime.

5. Thus, various averments have been mentioned in the present complaint including filing of W.P. No.9957 of 2015 by the petitioner, wherein this Court allowing the writ petition on 11.04.2016, restored the building permission; the petitioner also filing O.S. No.1 of 2014 on the file of the Principal Junior Civil Judge, Huzurabad against respondent No.2, and respondent No.2 also filing O.S. No.5 of 2015 on the very same file which are pending adjudication. He also would submit that the police having registered the complaint and filing charge sheet in respect of FIR No.123 of 2016 filed by respondent No.2 herein, but ignored the FIR No.122 of 2016 filed by the

petitioner herein, though, it is earlier in point of time and, therefore, charge sheet filed by the police and criminal case taken on file by the learned Magistrate are contrary to the order of this Court in Cri.P. No.11530 of 2016 and in violation of principles of natural justice, and thereby sought to quash the proceedings in PRC No.44 of 2016.

6. The learned Additional Public Prosecutor would resist the request. However, it is not clear as to whether the investigation in Crime No.122 of 2016 is completed or not.

7. This Court in Criminal Petition No.11530 of 2016, by order, dated 08.08.2016, held thus:

“According to the learned counsel for the petitioner both the above F.I.Rs. arise out of the same transaction and they are a case and a counter case.

In view of the above submission, the Investigating Officer is directed to look into both complaints and see as to whether investigation in both the cases can be done jointly or they arise out of different transactions and proceed in accordance with law.”

The order, thus, clearly shows that liberty is given to the Investigating Officer to look into both complaints and see as to whether investigation in both the cases can be done jointly or they arise out of different transactions and proceed in accordance with law. In such an event, filing charge sheet in Crime No.123 of 2016 cannot be held to be contrary to the said orders passed by this Court. However, the Investigating Officer is also obligated with the duty, on account of the

said order passed by this Court, to complete the investigation and file either charge sheet or final report, as the case may be, which he would arrive at on completion of investigation.

8. So far as the submissions of the learned counsel that only to see that a penal provisions of Special Act would attract, the *de facto* complainant added the caste name is concerned, it requires to be tested when witnesses are examined. The petitioner would get a chance to cross-examine the *de facto* complainant and he can elicit whatever defence he has urged now. At this stage, it is difficult to hold that the prosecution of petitioner would amount to the abuse of process of law.

Therefore, the present Criminal Petition is dismissed, at the stage of admission itself. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

April 25, 2017.
Mgr

