

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2320 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') requesting to quash the First Information Report in Crime No.23 of 2017 of Rayachoty U/G Police Station, YSR Kadapa District.

The petitioner, who is the sole accused in the aforesaid crime, alleged to have committed the offences punishable under Sections 342 and 506 IPC and Section 3 (1) (r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, 'the Act').

Heard Sri P.V.N.Kiran Kumar on behalf of Sri V.R.Reddy Kovvuri, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

The main ground on which the learned counsel for the petitioner seeks quashment of the First Information Report in the aforesaid crime is that the dispute alleged is between the wife and husband, as the petitioner herein is no other than the husband of respondent No.2/*de facto* complainant and their marriage took place prior to 1994 and even they are blessed with a son, who is now prosecuting medicine, and the wife filed the present complaint against the husband, who is a public servant. Learned counsel would further submit that even considering that the allegations are true, though, not

admitting, still, the mandatory requirement of the word ‘public view’ is absent conspicuously in the contents of the complaint and, therefore, pleads that it is a fit case for quashment. The said plea is resisted by the learned Assistant Public Prosecutor.

It is true, the word ‘public view’ is one of the requirements to prove the offence under the Act alleged against the petitioner, but the same is to be examined in the light of the evidences that would be collected during the course of investigation. The question whether the alleged incident did take place in public view, or otherwise, cannot be examined at the crime stage just basing on the complaint averments. Therefore, it cannot be said that the investigation into the allegations made in the complaint would amount to the abuse of process of law. However, the Investigating Officer is directed to follow the procedure inlaid by the provisions of Section 41A of the Code and the guidelines laid down by the Hon’ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹.

With the aforesaid direction, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous petitions, if any, pending in the Criminal Petition shall stand closed.

A.SHANKAR NARAYANA, J

Date: 30.03.2017
v v

¹ (2014) 8 SCC 273