

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2758 OF 2017

ORDER:

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 Calendar Case No.263 of 2017 on the file of the Additional Judicial Magistrate of First Class, Manthani, Karimnagar District, Telangana State.

2. The petitioner is arraigned as accused No.1 in the aforesaid Calendar Case, and he alleged to have committed the offences punishable under Sections 143, 452, 365 and 506 read with 149 IPC, along with four others.

3. Heard Sri O. Kailashnath Reddy, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

4. To appreciate the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor, certain facts are necessary to refer to herein.

i) Respondent No.2 - *de facto* complainant is the Vice-Chairman of the Primary Agricultural Cooperative Society Limited, Mahadevpoor, Karimnagar District. On 16.05.2016 at about 24.00 hours (midnight) while he was asleep along with his family in front of

his house, suddenly, the petitioner and four others, who are accused Nos.2 to 5, came there in a Bolero Vista vehicle, beat him indiscriminately with hands and when his wife and children interfered, they abused them in filthy language and pushed them and threatened with dire-consequences to kill and took the *de facto* complainant to Manthani and on 17.05.2016, again they threatened him with dire-consequences to kill if he tries to raise no confidence motion against them in the society meeting and then released him. When he lodged the complaint, the Mahadevpur Police registered a case in Crime No.53 of 2016 alleging the aforesaid offences.

5. The main submission of the learned counsel for the petitioner has been that the letter of no confidence motion was actually received by the Divisional Cooperative Officer on 18.05.2016 which was long after the alleged incident said to have taken place on 16.05.2016, and that itself would belie the averments in the complaint and, it is according to him that a false case is foisted against the petitioner in view of the political enmity between them.

i) It is also his submission that the vehicle was not seized and the police have not taken any pains to examine the driver of the vehicle to substantiate the prosecution case and, therefore, sought to quash the proceedings in the aforesaid Calendar Case to prevent the abuse of process of law.

6. The learned Additional Public Prosecutor would strongly resist the request.

7. It is true, the statements made by the *de facto* complainant and other witnesses would show that the petitioner and other accused said to have threatened him to take back the resolution which took place on 17.05.2016, at least though not on 18.05.2016, when the resolution was moved. But, as per the averments of complaint, it is clear that he was threatened not to move no-confidence motion. Thus, there are two versions on record which are in dispute and which one of the versions is correct or otherwise can only be tested when a full-fledged trial takes place as the petitioner herein gets a chance to cross-examine the *de facto* complainant and to exhibit the contradictions as defence exhibits. Hence, it is not a case where the extraordinary power under Section 482 of the Code can be exercised.

8. Therefore, the present Criminal Petition is dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the petition stand closed.

A. SHANKAR NARAYANA, J

April 13, 2017.

Mgr