

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3072 OF 2017

ORDER:

Requesting to quash the First Information Report in Crime No.30 of 2017 of Rebbena Police Station, Kumrambheem District, State of Telangana, the petitioners filed the present Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code').

2. The petitioners herein are arraigned as accused Nos.1 and 2 in the aforesaid Crime, and alleged to have committed the offences punishable under Sections 379 and 506 of Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri P. Shanker Rao Patil, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel would submit that the present complaint is filed before the learned Magistrate under Section 156 (3) of the Code and referred to the concerned police by the learned Magistrate only with a view to see that the petitioners are pressurized to settle the civil disputes. The learned counsel would submit that the complaint averments would show that the petitioner Nos.1 and 2 are the authorized agents to manage and run the white clay mine of M/s. Sai Ceramics and Refractories Limited under the lease for a period of 25

years which copy is also filed and, therefore, the *de facto* complainant is not right in filing the complaint.

5. The learned counsel for the petitioners also would submit that the *de facto* complainant taken two contradictory stands, one in Civil Suit and the other in the Complaint. In the Civil Suit, the *de facto* complainant mentioned that the petitioners herein were obstructing in lifting the coal ash, whereas in the criminal complaint he alleged that the petitioners are lifting the coal ash. Thus, according to the learned counsel, the contradictory versions are sufficient to view that the present First Information Report is nothing but the abuse of process of Court and intended to blackmail to settle the civil case.

6. The learned Additional Public Prosecutor for the State of Telangana strongly resists the request contending that just basing on inconsistent versions, even if such statements do exist it is not a case to view the abuse of process of Court; the crime is under investigation and the truth is to be unravelled, more particularly, when the offence of theft, is alleged, associated with criminal intimidation.

7. Perused the complaint. The main grievance of the *de facto* complainant is that without his knowledge and consent the petitioners herein are lifting 1500 trips of Coal Ash / Fly Ash and transported the same to Maharashtra through some brokers and sold away the same from the abandoned mines illegally and thereby caused monetary loss to the tune of Rs.25,00,000/-. When he questioned

them as to why they committed theft of Coal Ash and caused wrongful loss to him, they threatened him with dire consequences. There exist disputed facts since the *de facto* complainant entered into agreement with Sirpur Paper Mills Limited to shift the Coal Ash / Fly Ash generated from the boilers of the mills round the clock on day to day basis and that the complainant is to engage Lorries / Tipper vehicles and to transport Coal Ash / Fly Ash in the land belonging to the complainant or in any abandoned mines to avoid pollution hazards. Therefore, unless the investigation is done by collecting evidences, it cannot be said at this stage that the complaint lodged by the *de facto* complainant is nothing but the abuse of the process of law, as sought to be viewed by the petitioners. The complaint contains *prima facie* allegations as to the commission of cognizable offences, alleged by the *de facto* complainant, and, therefore, requires continuation of investigation.

8. There is no merit in the present petition and, accordingly, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Date:05.06.2017.

Mgr / gbs