

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2210 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed requesting to quash the proceedings in C.C.No.304 of 2015 on the file of IV Metropolitan Magistrate, Bheemunipatnam.

2. The petitioner is sole accused in the aforesaid Calendar Case. He alleged to have committed the offence punishable under Section 353 I.P.C.

3. Heard Sri B. Surender Reddy, learned counsel for the petitioner, and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. Learned counsel for the petitioner would submit that, in fact, the petitioner has neither uttered the abusive phrases, as stated in the charge sheet, nor indulged in obstructing discharge of official duties by respondent No.2 - *de facto* complainant, who was working as Sub-Registrar in the Office of the Sub-Registrar Madurawada, Midhilapuri Vuda Colony, Chinagadili, Visakhapatnam City. He would further submit that the *de facto* complainant, having lodged the complaint, subsequently, stated that the abusive phrases were not uttered by the petitioner herein and some others and he intends to compromise, but,

as the offence alleged against the petitioner is a non-compoundable offence, the present Criminal Petition is filed.

5. The factual aspect is reflected in paragraph No.2 at page No.2 of the material papers filed by the petitioner, besides the charge sheet averments.

6. Irrespective of the submissions made by the learned counsel for petitioner, the said defence theory, now put forth by the learned counsel for petitioner, requires to be decided when the witnesses are examined. It is not a case where the complaint can be quashed, when there are specific allegations in the complaint against the petitioner and more so, the *de facto* complainant is no other than a public servant holding responsible post. Therefore, prosecution of the petitioner, at this stage, cannot be viewed as abuse of the process of law.

7. Hence, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 17, 2017.
MD