

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1564 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') requesting to quash the First Information Report in Crime No.97 of 2016 of Srikalahasti II-Town Police Station, Chittoor District.

2. The petitioners herein are arraigned as accused Nos.1 to 3 in the aforesaid crime and they alleged to have committed the offences punishable under Sections 427, 506 and 509 read with 34 of the Indian Penal Code, 1860 (IPC) and Section 3(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Heard Sri D. Purna Chandra Reddy, learned counsel for the petitioners.

4. Substantially, the submission of the learned counsel for the petitioners is that pursuant to the construction of bathroom by the *de facto* complainant herein, the Municipal Authorities demolished the same, on 02.12.2016, since she encroached the road margin and on that the *de facto* complainant and others alleged to have beat the 3rd petitioner herein and on that the 3rd petitioner lodged a complaint on 03.12.2016 and the same was registered as Crime No.93 of 2016 for the offences punishable under Sections 354, 448, 323, 506 and 509 read with 34 IPC against the *de facto* complainant and seven others. The learned counsel would draw the attention to the complaint, dated 03.2.2016, wherein it is shown that by then itself the 3rd petitioner

referred about the threats of filing of the case by the *de facto* complainant under Atrocities Act, and, therefore, nothing else is required to further probe into in view of the present complaint is a false complaint foisted against the petitioners as a counter blast to the complaint lodged by the 3rd petitioner.

5. Learned Additional Public Prosecutor for the State of Andhra Pradesh would resist the request.

6. A perusal of the complaint allegations would clearly make out prima facie material at this stage and, therefore, it is difficult to view that the present complaint is foisted against the petitioners unless the Investigating Officer collects evidences and arrives at a conclusion that a cognizable offence has been committed by the petitioners. Therefore, the request to treat the complaint as abuse of process of law cannot be accepted at this stage in view of the prima facie allegations available in the complaint.

7. Learned counsel however, makes a request to the extent of observing due formalities by the Investigating Officer as envisaged by the provisions of Section 41-A of the Cr.P.C. Therefore, the Investigating Officer is directed to adhere to the procedure laid under Section 41-A of the Cr.P.C. and the guidelines laid down by the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**¹.

8. With the above direction, the criminal petition is disposed of at the admission stage itself.

¹ (2014) 8 SCC 273

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

A. SHANKAR NARAYANA, J

February 28, 2017.

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