

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.156 OF 2017

ORDR:

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.317 of 2016 and CFR No.456 of 2016 on the file of the Judicial Magistrate of First Class, Nagarkurnool, State of Telangana.

2. The petitioners herein are arraigned as accused Nos.1 to 13 respectively in the aforesaid Calendar Case. They alleged to have committed the offences punishable under Sections 384, 323, 447, 504 and 506 of Indian Penal Code, 1860 (for short 'IPC').

3. Heard Sri G.M. Vijay Kumar, learned counsel for the petitioners and the learned Additional Public Prosecutor for the State of Telangana.

4. The learned counsel would submit that the *de facto* complainant is the main accused in a murder case, wherein one Hanumanthu Vadthyavath was killed on 15.05.2016, in which, the *de facto* complainant - respondent No.2 herein and LW.2 in the present case were arrested and they were enlarged on bail at a later point of time; only to wriggle themselves out of the prosecution in the murder case which was registered as Crime No.46 of 2016 under Sections 302 and 301 IPC of Gopalpet Police Station; as a counterblast, the *de facto*

complainant falsely implicated them by filing the present complaint in CFR No.456 of 2016.

5. The learned Additional Public Prosecutor would strongly resist the request and also Sri A. Kranti Kumar Reddy, learned counsel for respondent No.2 - *de facto* complainant.

6. Perused the complaint and the statements of witnesses recorded under Section 161 of the Code.

7. It is no doubt true, an incident involving the murder of Vadthyavath Hanmanthu had taken place, which was registered as crime No.46 of 2016 under Sections 302 and 301 IPC of Gopalpet Police Station, and the *de facto* complainant and LW.2 herein were arrested amongst 13 accused named therein, but, certainly, it cannot be said that, as a counterblast, the present complaint is filed, when the police concerned having investigated the crime, filed charge sheet making out a *prima facie* case. The respective overt acts on the part of the petitioners herein are unnecessary to refer to as the statements of witnesses recorded under Section 161 of the Code do contain the same. Therefore, it cannot be said that the prosecution of petitioners herein would amount to the abuse of process of law. In fact, certain disputed questions of fact would arise in the present case, which can only be resolved when a full-fledged trial is held.

Therefore, the present Criminal Petition is dismissed, at the stage of admission itself. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

April 25, 2017.
Mgr

