

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.3105 of 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), requesting to quash the proceedings in Calender Case No.270 of 2016 on the file of the Judicial Magistrate of First Class, Kurnool.

The petitioners are arraigned as accused Nos.1 to 8. They alleged to have committed the offences punishable under Sections 448, 323, 506 and 509 read with 34 IPC.

Sri J.U.M.V.Prasad, learned counsel for the petitioners, would point out certain inconsistencies in the complaint with that of the statements of the witnesses and also certain inconsistent versions in the statements of the witnesses as regards the overt acts complained by the *de facto* complainant. Learned counsel has also pointed out the delay in lodging the complaint stating that there is 24 hours delay, which, according to him, is unexplained.

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

Perused the charge sheet, the statements of witnesses recorded under Section 161 of the Code and also the copy of the complaint. The inconsistency pointed out by the learned counsel for petitioners require consideration, in view of the fact that there have been overt acts attributed to the petitioners by the *de facto* complainant and the

witnesses, whose statements have been recorded under Section 161 of the Code. It is no doubt true, there appears to be delay in lodging the complaint and that there are certain improvements, which the learned counsel has pointed out, and inconsistency in the statements of the witnesses as regards the overt acts attributed to the petitioners, but the question is whether this Court can enter into the arena of appreciation of evidence collected by the Investigating Officer. Certainly not, for the reason that in accordance with evidentiary rule, appreciation of evidence that takes place after full-fledged trial can only be the way out. Therefore, certainly, it cannot be said at this stage that conducting trial would amount to the abuse of process of law.

Learned counsel for the petitioners would make a request that the petitioners 5 to 8/accused Nos.5 to 8 are women folk and it causes certain embarrassment to them in attending the Court, besides inconvenience in attending the domestic affairs.

There appears to be reason in exempting the appearance of the petitioners 5 to 8/accused Nos.5 to 8 during trial in C.C.No.217 of 2016. Therefore, their presence is exempted, except on those dates when the learned Magistrate takes up examination under Section 239 of the Code and also examination under Section 313 of the Code, and in case their identity is required and the learned Magistrate directs, they shall appear when there is necessity for their appearance when the witnesses are examined.

Subject to the above, the Criminal Petition is dismissed at the

stage of admission itself.

Miscellaneous petitions, if any, pending in the Criminal Petition stand closed.

A.SHANKAR NARAYANA, J

Date: 18.04.2017
v v

