

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1546 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') seeking quashment of Calendar Case No.527 of 2014 on the file of Additional Magistrate of First Class, Adoni, Kurnool District.

2. The petitioners herein are arraigned as accused Nos.1 to 8 in the aforesaid Calendar Case and alleged to have committed the offence punishable under Section 188 read with 34 IPC for disobeying the orders promulgated by the police concerned in Adoni town under Section 30 of the Police Act.

3. Heard Sri S.D. Gowd, learned counsel for the petitioners and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The main submission of the learned counsel for the petitioners is that, the learned Magistrate ought not to have taken cognizance for the reason that the charge sheet was filed in violation of the provisions of Section 195 of the Code and, in fact, this Court in **Kottu Satyanarayana v. State of Andhra Pradesh**¹, in an alike fact-situation, allowed the criminal petition quashing the proceedings and directing the Mandal Development Officer, Tadepalligudem to lodge a suitable complaint before the concerned Magistrate within the

¹. 2015 (1) ALD (Crl.)572 (AP)

period of limitation prescribed under Section 468 of the Code; a similar situation occurs in the present case also, and even the learned Additional Public Prosecutor would clearly concede that there has been violation of provisions of Section 195 of the Code and, therefore, sought to pass similar order as the one passed by a learned Single Judge of this Court in the aforesaid case.

5. Perused the material on record and it discloses that Head Constable of I Town Police Station, Adoni, lodged a complaint. Certainly, it is not within his purview to lodge such a complaint and, therefore, while quashing the proceedings in the aforesaid Calendar Case, the present petition can be allowed.

6. The Criminal Petition is accordingly, allowed quashing Calendar Case No.527 of 2014 on the file of the Additional Magistrate of First Class, Adoni, Kurnool District. However, LW.1 is directed to file a suitable complaint before the concerned Magistrate within the period of limitation prescribed under Section 468 of the Code and the learned Magistrate shall deal with the said complaint in accordance with law. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

March 07, 2017.

Mgr/GBS