

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1157 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 First Information Report No.7 of 2017 of Marpally Police Station, Rangareddy District.

2. The petitioners alleged to have committed the offences punishable under Sections 323, 504 read with 34 IPC and Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. Heard Sri K. Pradeep Reddy, learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State of Telangana.

4. The learned counsel for the petitioners would submit that the incident, as such, did not at all occur as projected by the *de facto* complainant - respondent No.2 herein in the complaint, dated 24.01.2017; in fact, there has been civil litigation between the parties in O.S. No.132 of 2016 on the file of the Junior Civil Judge, Vikarabad; even a *status quo* order was granted by the order, dated 07.11.2016 in I.A. No.424 of 2016 in the said suit in favour of petitioner No.1 herein and his brothers against one Topugonda Pratap Reddy and Topugonda Vithal Reddy, who are instrumental in getting

the complaint under challenge filed through the *de facto* complainant and, therefore, it is nothing but abuse of process of law to conduct investigation and exercise of conducting trial, and sought to quash the crime.

5. The learned Additional Public Prosecutor resisted the request stating that the complaint contains even the abusive phrases.

6. A perusal of the complaint would indicate the petitioners alleged to have abused the *de facto* complainant by taking his caste name, and except the copies of complaint under challenge, plaint in O.S. No.132 of 2016, affidavit in support of petition in I.A. No.424 of 2016 and *status quo* order therein, no other material is forthcoming. Of course, copies of FIR No.188 of 2016, 189 of 2016 and plaint in O.S. No.94 of 2016 on the file of the Junior Civil Judge, Vikarabad are also filed.

7. Be that as it may, when the complaint contains specific overt acts including abusive phrases alleged to have used by the petitioners, it is difficult, at this stage, to hold that the lodging of complaint is nothing but abuse of process of law. The material placed herein can be placed before the Investigating Agency, who would, of course, issue a notice under Section 41A of the Code following the procedure laid down therein.

8. Therefore, the present Criminal Petition is dismissed at the admission stage itself observing that the Investigating Agency would resort to the procedure inlaid by the provisions of Section 41A of the code and also keeping in view, the guidelines laid down by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar**¹.

As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.

February _____, 2017.
Mgr

A. SHANKAR NARAYANA, J



1. (2014) 8 SCC 273