

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.679 OF 2017

ORDER:

Requesting to quash the First Information Report in Crime No.2 of 2017 of Lingasamudram Police Station, Prakasham District, the petitioners, who are arraigned as accused Nos.1 to 3 viz., Erla Brahmaiah, Erla Shivaiah alias Shiva Krishna and Erla Hari Krishna, respectively, filed the present petition under Section 482 of the Code of Criminal Procedure, 1973.

2. The offences alleged against the petitioners are punishable under Sections 379, 409, 506, 468 read with Section 34 of the Indian Penal Code, 1860, and Section 3(I)(r)(s)(II)(Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Heard Sri N. Ravi Prasad, learned counsel for the petitioners, and the learned Additional Public Prosecutor appearing for the State of Andhra Pradesh.

4. Sri N. Ravi Prasad, learned counsel for the petitioners, pleads innocence and false implication of the petitioners. It is his submission that the petrol bunk which is the subject matter in the present case giving rise to the alleged offences against the petitioners was, in fact, taken in the name of the *de facto* complainant, respondent No.1 herein, by petitioner No.1; petitioner Nos.2 and 3 are sons of petitioner No.1; and they started operating the petrol bunk giving

profits to the *de facto* complainant; but the *de facto* complainant having developed eyesore, wanted to take control over the petrol bunk and, in fact, the present complaint is nothing but counter blast to the notice, dated 17.01.2017, got issued by petitioner No.2 to the *de facto* complainant for recovery of Rs.1,22,000/- and the notice dated 17.01.2017 got issued by petitioner No.3 to the *de facto* complainant for recovery of Rs.17,00,000/- and also the notice dated 17.01.2017 got issued by the wife of petitioner No.1 to the *de facto* complainant for recovery of Rs.2,20,000/- under the provisions of the Negotiable Instruments Act, 1881. It is also his submission that the petrol bunk is a private place and the witnesses herein are planted by the *de facto* complainant. Certain other submissions are also made in the direction of substantiating his submission that the investigation and prosecution are gross abuse of process of law and have to be arrested, and, therefore, to quash the complaint.

5. The learned Additional Public Prosecutor resisted the request stating that the complaint filed by the *de facto* complainant clearly shows the overt acts of the petitioners.

6. What is available on record is the First Information Report, to which, copy of the complaint is also enclosed.

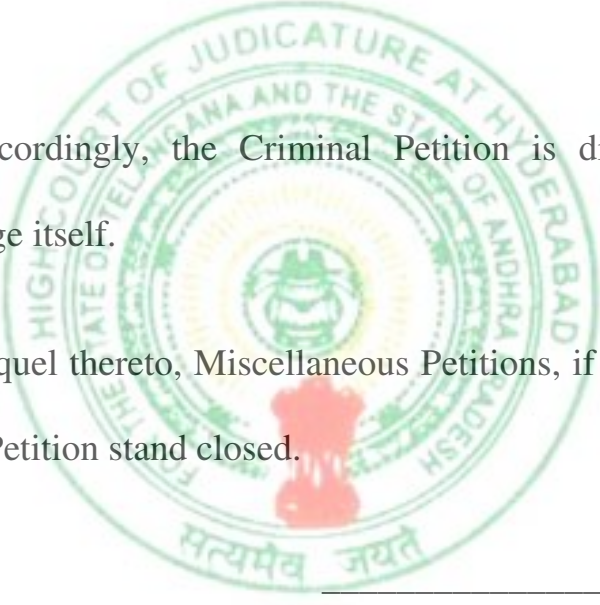
7. A perusal of the complaint shows a specific recital that all the three (3) petitioners have taken away the records of the petrol bunk and in that context when there was an altercation, the petitioners

have taken the caste name of the *de facto* complainant and insulted her by taking her caste name causing harassment to her and thereby sought to give protection.

8. The complaint allegations would certainly *prima facie* point at the commission of cognizable offences at this stage which require investigation, and, therefore, the request of the petitioners cannot be acceded to, to quash the complaint. It is open to the petitioners to project their case before the investigating officer during the course of investigation.

9. Accordingly, the Criminal Petition is dismissed at the admission stage itself.

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



A. SHANKAR NARAYANA, J

February 13, 2017.
PV