

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.3470 of 2011

ORDER:

1. This petition is filed by the petitioner under Section 482 Cr.P.C. seeking to direct both C.C.No.128 of 2010 on the file of the Judicial Magistrate of First Class, Kurnool and the private complaint to be tried together as contemplated under Section 210 Cr.P.C.

2. The contention of the learned Counsel for the petitioner is that the petitioner lodged a complaint and the same was registered as Crime No.21 of 2009 on the file of Kurnool II Town Police Station for the offence under Section 324 IPC and that after completion of the investigation, charge sheet was filed for the offence under Section 324 IPC only and that having aggrieved by the same, the petitioner filed a private complaint under Section 200 Cr.P.C. for the offence under Section 307 IPC and that the said private complaint is at the stage of taking cognizance and hence, both the cases can be tried together.

3. On the other hand, the learned Public Prosecutor contended that no prejudice would be caused if the Court below proceeds with the proceedings in C.C.No.128 of 2010.

4. A perusal of the record goes to suggest that basing on the report of the petitioner, the Station House Officer, Kurnool II Town Police Station registered a case in Crime No.21 of 2009 for the alleged incident occurred on 27.1.2009 at 21 hours and after completion of the investigation, charge sheet was filed on 20.3.2009 for the offence under Section 324 IPC. The Court below took cognizance and numbered it as C.C.No.128 of 2010. After coming to know that the police filed the charge sheet for the offence

under Section 324 IPC only, the petitioner filed a private complaint on 7.3.2009 for the offence under Section 307 IPC. Having recorded the statement of the petitioner, the matter is being proceeded with, for enquiry under Section 202 Cr.P.C. Now, the above C.C.No.128 of 2010 is coming up for trial.

5. Reading of Sub-Section 2 of Section 210 Cr.P.C. goes to show that if the case filed by the police and the case based on a private complaint are arising out of the same incident, both shall be tried together. If the trial in C.C.No.128 of 2010 is proceeded with, while pending taking cognizance of the private complaint filed by the petitioner, it will cause prejudice to the petitioner. Hence, the learned Judicial Magistrate of First Class, Kurnool, is directed to try both C.C.No.128 of 2010 and the case based on private complaint filed by the petitioner together under Section 210 Cr.P.C.

6. Accordingly, the Criminal Petition is allowed. Consequently, interim stay granted on 27.4.2011 in Crl.P.M.P.No.3693 of 2011 is vacated and the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE N. BALAYOGI

Date: 12th October, 2017
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