

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1581 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') requesting to quash the First Information Report in Crime No.19 of 2017 of Mahanandi Police Station, Kurnool District.

2. The petitioners are arraigned as accused Nos.1 and 2 in the aforesaid crime. They alleged to have committed the offences punishable under Sections 147, 148, 324 and 307 read with 149 of the Indian Penal Code, 1890 (IPC).

3. Heard, Smt. Y. Ratnaprabha, 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 there was a scuffle, which gave rise to the fight between both the parties i.e., the *de facto* complainant's party and the accused party and therefore, the offence under Section 307 IPC, cannot be readily inferred, more particularly, when the injuries sustained by the *de facto* complainant are simple in nature and at the most it would attract the offence under Section 323 IPC.

5. Such a submission, at this stage, is difficult to accede to. The complaint in case does not contain any allegation touching the complicity of the petitioners at all, it would amount to abuse of process of law or can be viewed as vexatious. But, in the present

case, where the allegation would prima facie project the complicity of the petitioners in the commission of offence alleged, certainly, it is not a case where quashment can be ordered. Further, whether the offence punishable under Section 307 IPC would sustain or not, cannot be decided as it would be premature to make a finding on that particular submission. It is for the investigating agency on collecting evidences during course of investigation to arrive at a just conclusion.

6. Accordingly, the criminal petition is dismissed at the admission stage itself.

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

March 1, 2017.

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A. SHANKAR NARAYANA, J

