

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1713 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed requesting to quash the proceedings in S.C.No.30 of 2017 on the file of II Additional Assistant Sessions Judge, Kadapa.

2. The petitioners, arraigned as accused Nos.1 and 2, along with one Mahesh, arraigned as accused No.3, who is not a party to this Criminal Petition, alleged to have committed the offences punishable under Sections 307 and 326 read with 34 I.P.C.

3. Heard Sri Nimmagadda Satyanarayana, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. Learned counsel for the petitioners would submit that, initially, when the First Information Report was registered, only the offence punishable under Section 324 read with 34 I.P.C. was clutched, and subsequently, after completion of investigation, while laying charge sheet, the offences punishable under Sections 307 and 326 read with 34 I.P.C. were clutched. According to the learned counsel, no intention can be gathered either from the complaint averments or from the material on record, so as to show that the

petitioners attempted to kill respondent No.2 – *de facto* complainant. He would also submit that charges were framed.

5. Learned Additional Public Prosecutor resists the request.

6. Whether there has been *mens rea* to kill respondent No.2 - *de facto* complainant or otherwise, can only be inferred from the circumstances and evidence that would be let in through prosecution witnesses. At this stage, it is difficult to cull out the intention on the part of the petitioners that they intended to kill the *de facto* complainant or otherwise. In that view of the matter, it cannot be said that there is no material to proceed against the petitioners for the offences punishable under Sections 307 and 326 read with 34 I.P.C.

7. Hence, the present Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 07, 2017.
MD