

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2991 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the proceedings in C.C.No.354 of 2015 on the file of XXV Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad.

2. Petitioners herein are arraigned as accused Nos.1 to 3 in the aforesaid Calendar Case. They alleged to have committed the offences punishable under Sections 448 and 506 read with 34 I.P.C.

3. Heard Sri K. Venu Madhav, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

4. Learned counsel for the petitioners would submit that the association of flat owners of Hi-tech Avenue, in which respondent No.2 - *de facto* complainant is also one of the residents, have filed a Suit in O.S.No.1559 of 2014 on the file of II Senior Civil Judge, Ranga Reddy District at L.B. Nagar, seeking perpetual injunction, arraying the *de facto* complainant viz., V. Madhusudhana Rao as defendant No.3, one A. Venkatesh Yadav as defendant No.1 and M/s. Magna Infratech (India) Private Limited, who is the builder, as defendant No.2 and thus, the dispute between the parties is only civil in nature, which is converted into criminal action. It is his further

submission that, though, no incident, as complained by respondent No.2, did take place, the representatives of the Hi-tech Avenue Flat Owners Welfare Association have been implicated in the present Calendar Case.

5. It is no doubt true, earlier when a dispute had arisen between the parties and a complaint was lodged by respondent No.2, the concerned police have called the parties, pacified it and closed the matter. Thereafter, respondent No.2 has complained before the Court and the same was referred by the concerned Magistrate for investigation, under Section 156 (3) of the Code, and, ultimately, charge sheet was laid against the petitioners alleging offences punishable under Sections 448 and 506 read with 34 I.P.C.

6. When *prima facie* allegations occur in the statements recorded by the police or in the charge sheet itself, certainly, it cannot be said that conducting trial by the learned Magistrate would amount to the abuse of process of law. There are disputed questions of fact in the present case, which can be resolved only when the witnesses step into the box and cross-examined by the opposite party. In such an event, an enquiry cannot be conducted by this Court under Section 482 of the Code. Therefore, there is no merit in the present Criminal Petition.

7. Hence, the present Criminal Petition is dismissed. However, the learned XXV Metropolitan Magistrate, Kukatpally at Miyapur, is

directed to dispose of C.C.No.354 of 2015 within a period of six months from the date of receipt of a copy of this order.

8. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A.SHANKAR NARAYANA, J

April 18, 2017.
MD

