

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1220 OF 2017

ORDER:

The petitioners, who are arraigned as accused Nos.1 and 2 in Crime No.25 of 2017 of Huzurabad Police Station, Karimnagar District, request to quash the First Information Report in the said crime under Section 482 of the Code of Criminal Procedure, 1973.

2. Both the petitioners alleged to have committed the offences punishable under Section 3 (1) (r) (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short 'Special Act') and Section 504 read with 34 IPC.

3. Heard Sri Rama Rao Immaneni, learned counsel for the petitioners and the learned Additional Public Prosecutor for the State of Telangana.

4. Substantially the complaint allegations are that, on 26.01.2017 at about 7.00 p.m., when there was an altercation taking place between one Pinreddy Tirupathi Reddy and Vangala Vemareddy near a *Kirana* shop in Sirsapally village, the *de facto* complainant while he was proceeding to purchase All Out machine, he stopped at the place of occurrence and when asked Vangala Vemareddy, why there was altercation between them, Vangala Vemareddy and Vangala Sripal Reddy, who are petitioners herein, alleged to have hurled abusive phrases taking the caste name of the *de facto* complainant

and, thus, insulted him in public view and he left that place having felt insulted and approached the Sarpanch and then lodged the present complaint on 28.01.2017 and, thus, there was delay in lodging the complaint.

5. The submissions of the learned counsel are three fold. Firstly, the petitioners are involved in brutal murder of Nagunuri Cheralu, in which one Tirupathi Reddy and the present *de facto* complainant along with their aids attacked and murdered Nagunuri Cheralu and, thus, the *de facto* complainant is one of the accused in the said murder case punishable under Section 302 IPC and he was taking vengeance against the petitioners. Second, on 26.01.2017, respondent No.2 along with Tirupathi Reddy when assaulted petitioner No.1 resulting grievous injuries and a fracture to him, he was taken to hospital by his wife, who lodged a complaint against the *de facto* complainant on the very next morning i.e., 27.01.2017, and at that time, the *de facto* complainant and his men threatened the petitioners that they would lodge a false complaint against the petitioners under the provisions of the Special Act. Third, the *de facto* complainant by forging the signature of petitioner No.1 alleged to have filed a suit in O.S. No.16 of 2016 on the file of the Senior Civil Judge, Huzurabad, and petitioner No.1 submitted all such proof evidencing the forgery before the Court in his defence, and in order to save his skin, Tirupathi Reddy got lodged a false present complaint

against the petitioners. Thus, the learned counsel would submit that not only the delay in lodging the complaint is sufficient to show that the present complaint is foisted deliberately against the petitioners, but also there was motive for implicating the petitioners under the provisions of the Special Act by the *de facto* complainant and, therefore, *ex facie*, the complaint is liable to be dismissed to prevent abuse of process of law.

6. It is well settled that in a case where quashment of First Information Report is sought the only material available through the complaint, *ex facie*, it contains certain allegations indicating the commission of a cognizable offence, it would be difficult to quash the FIR basing on the delay in lodging the complaint and motive for false implication of the petitioners. It is no doubt true, the submissions made by the learned counsel may have force not at this stage, since the submissions are based on facts that may be capable of giving any amount of suspicion as to the truth of the allegations in the complaint. But, certainly, suspicion cannot be substitute of proof. Since investigation is yet to be conducted. The complaint cannot be thrown away at the threshold. Therefore, the petition is liable to be dismissed. However, it is open to the petitioners to place all the material before the Investigating Officer when he collects evidences and the Investigating Officer would certainly give due consideration therefor in arriving at just conclusion while filing report.

Therefore, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

March 06, 2017.

Mgr

