

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1020 OF 2017

ORDER:

The petitioners herein are arraigned as accused Nos.1 to 5, 7 and 8 in Calendar Case No.101 of 2016 on the file of the learned II Additional Judicial Magistrate of First Class, Proddatur, YSR Kadapa District, Andhra Pradesh State.

2. They make a request under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code') to quash the proceedings in the aforesaid Calendar Case. They alleged to have committed the offences punishable under Sections 509, 354, 323 read with 34 IPC.

3. Heard Sri Narasimhulu Parise, learned counsel for the petitioners, and the learned Additional Public Prosecutor appearing for the State of Andhra Pradesh.

4. It is not in dispute that when the Investigating Officer filed charge sheet, he has deleted the name of accused No.6 and, thus, as against eight accused, only seven accused have been facing the charges.

5. The learned counsel while submitting that the petitioners are falsely implicated, it is according to him, that the real facts have been, that there are bore-wells adjacent to the petitioners house sites, who

belong to the Scheduled Caste Community; respondent No.1 - *de facto* complainant and her community people drew water from the bore-wells for their agricultural purpose resulting in the bore-well becoming dry; on 30.12.2015 at about 6.00 a.m., when the petitioners herein were levelling the land for construction of the house, the community people of the *de facto* complainant came and obstructed them, beat them and abused them in filthy language taking their caste name, upon which, a complaint was lodged by petitioner No.6; basing on which, the concerned police registered a case in Crime No.306 of 2015 under Sections 509, 323, 506 read with 34 IPC and Sections 3 (1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), Act 1989 against respondent No.1 herein, her husband and their kith and kin, totally numbering twelve (12) persons; that the subject land, where the incident occurred was gifted to petitioner No.6 by her father, located in the limits of the scheduled colony; respondent No.1 and her husband and their community people beat them and abused them in filthy language, and as a counterblast, the present complaint was lodged implicating the petitioners herein; that the Investigating Officer, somehow, overlooked the said fact and filed the charge sheet, which cannot be maintained as it amounts to abuse of process of law and the complaint is vexatious in nature and, therefore, requests to quash the proceedings.

6. The learned Additional Public Prosecutor strongly resists the request contending that there have been distinct overt acts attributed to the petitioners by the *de facto* complainant.

7. The petitioners have not chosen to file statements of the witnesses recorded under Section 161 of the Code. Except the charge sheet and copy of First Information Report, nothing-else is forthcoming. It is no doubt true, the copy of the complaint lodged by petitioner No.6 against respondent No.1 - *de facto* complainant and others is filed, but that would not, certainly, aid the petitioners at this stage to view the complaint herein as false. Further, the very fact that the Civil Assistant Surgeon, Government Hospital, Proddatur is cited as LW.9, who has treated the *de facto* complainant and issued Wound Certificate is sufficient enough even at this stage to hold that it is a triable case and only on completion of trial, the Court can arrive at whether the complaint is a vexatious one and as a counterblast to the complaint lodged by petitioner No.6, the *de facto* - complainant and her community people the present complaint is filed with a false motive to implicate the petitioners.

8. Further, the fact that the person, who originally arraigned as accused No.6 was deleted when the charge sheet was filed by the Investigating Officer, on completion of investigation, would not in any way substantiate the false implication pleaded by the petitioners. Therefore, it cannot be said that the prosecution of the petitioners in

the Calendar Case is nothing but abuse of process of law, nor the complaint can be construed as vexatious in nature.

Therefore, the present Criminal Petition is dismissed at the stage of admission itself. As a sequel thereto, miscellaneous petitions, if any, pending in the petition, stand disposed of.

A. SHANKAR NARAYANA, J

February 13, 2017.
Mgr

