

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9964 OF 2017

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in Crime No.64 of 2017 of Khajipeta P.S., Kadapa District, registered for the offences punishable under Sections 147, 148, 452, 427, 509, 354, 324 and 307 read with Section 149 of the Indian Penal Code, which is pending investigation.

Petitioner is the third accused in the above crime. It is alleged that on 22.04.2017 at about 9.45 pm, he along with 20 others went to the house of the *de facto* complainant in search of her husband, abused her in filthy language saying that her husband is the only person obstruction for them and threatened to kill him. When she replied that her husband went to Hyderabad, thereupon they again abused her in filthy language and while saying so, they broke opened the doors, entered into the house and tried to beat her but some of them prevented from causing injuries, as she is a lady. All the persons were holding big knives, rods, beer bottles and axes. Thus, the petitioner along with others allegedly committed the abovementioned offences. On the strength of the complaint, the above crime was registered by the police for the offences punishable referred to supra.

The present complaint was filed on the sole ground that the petitioner was at Care Hospital, Hyderabad at 11 am on

the date of the incident whereas the offence took place at 9.45 pm at Khajipet, Rangapuram Village, Y.S.R.Kadapa District which is far away to the place where the petitioner was present i.e. Care Hospital, Hyderabad at 11 am and there was no possibility for him to reach Khajipet, Rangapuram Village, Y.S.R.Kadapa District by 9.45 pm and commit such offences and requested this Court to quash the proceedings.

Counsel for the petitioner reiterated the said contention while contending that he addressed letter disclosing the factum of his presence at 11 am at Care Hospital, Hyderabad on the date of the incident but the police proceeded to investigate the offence against this petitioner also. It is further contended that the petitioner is suffering from various ailments and as he is directed to undergo bed rest and treatment, he could not attend the Court and face the trial and hence, requested to quash the proceedings.

As seen from the allegations made and the grounds urged by the counsel for the petitioner, the plea is only an *alibi* which is relevant under Section 10 of the Evidence Act and the plea of alibi is a question of fact to be decided by the trial Court after adducing evidence. Though the petitioner was treated at Care Hospital on the date of the incident at 11 am and there was no possibility to be present by 9.45 pm at Khajipet, Kadapa District where the incident took place, he may succeed and get acquittal only after full-fledged trial adducing evidence but at this stage, it is not a ground to

quash the proceedings. Consequently, the Criminal Petition is liable to be dismissed.

In the result, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

31st October 2017
RRB

