

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.11541 of 2017

ORDER.

This Criminal Petition is filed under Section-482 of the Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.441 of 2017 on the file of the learned Additional Judicial Magistrate of First Class, Addanki, Prakasam District in respect of the petitioner/accused No.3.

The petitioner-accused No.3 is the brother of respondent No.2-*de facto* complainant. He is working as Regional Relationship Manager in Indus-ind Bank.

The specific allegation made against the petitioner is that on 21.6.2016, when accused Nos.1, 2 and the petitioner/accused No.3 beat the *de facto* complainant indiscriminately and caused bleeding injuries to her, she lodged a complaint, which is registered as a case in Crime No.79 of 2016 on the file of Martur Police Station.

The petitioner pleaded that he went from Vijayawada to Hyderabad by Truejet flight and stayed in Kamat Lingapur Hotel, Hyderabad, and from Hyderabad, he went to Mumbai by Air India flight and stayed at Bank Guest house at Mumbai. Later, he returned from Mumbai to Hyderabad on 22.6.2016 and therefrom to Vijayawada on 23.6.2017. Thus, the main contention of the petitioner is that he was not present in the Village on the date of the

incident. The petitioner produced the documentary evidence such as tickets, photostat copies of the Boarding pass of Truejet flight, hotel bills, etc to establish that he was not in the Village on the date of the incident.

The aforesaid plea raised by the petitioner is a ground to acquit the accused subject to establishing certain requirements. However, the plea of *alibi* has to be proved by the petitioner by producing cogent evidence during the trial. Based on such plea of *alibi*, this Court cannot quash the proceedings by exercising the inherent power under Section-482 Cr.P.C. At the stage of considering the Criminal Petition under Section-482 Cr.P.C., this Court is required to verify the allegations made in the charge sheet and the material produced along with the charge sheet to find out whether the allegations on their face value constitute an offence. The plea of *alibi* is a question of fact, which has to be decided by the trial Court after full-fledged trial of the case. As such, this Court cannot quash the proceedings on the sole ground that the petitioner was present elsewhere and he was not in the Village, where the scene of offence is situated.

Hence, I find no ground to quash the aforesaid proceedings against the petitioner. However, the petitioner is at liberty to raise the plea of *alibi* before the trial Court and produce the evidence, which is relevant under Section-11 of the Indian Evidence Act, to

prove his specific plea of *alibi*.

With the above observations, the Criminal Petition is dismissed.

As a sequel, Miscellaneous Petitions pending, if any, shall also stand dismissed as infructuous.

JUSTICE M. SATYANARAYANA MURTHY

23rd November 2017

dr

