

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.1506 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner-A.1 seeking to quash the proceedings against him in P.R.C. No.16 of 2017 on the file of the Judicial Magistrate of First Class at Banaganapalle, Kurnool District, for the offences under Sections 324 and 307 I.P.C. r/w Section 34 I.P.C.

2. Heard the learned counsel for the petitioner-A.1 and the learned Assistant Public Prosecutor, apart from perusing the material on record.

3. Learned counsel for the petitioner-A.1 would submit that due to land disputes, this case is foisted against the petitioner-A.1; the petitioner-A.1 was not at all present at the time of the incident and he is innocent person; there was no intention to cause death; and ultimately, prayed to allow the application.

4. Learned Assistant Public Prosecutor opposed the grant of relief sought by the petitioner-A.1 stating that there are allegations constituting the offences under Sections 324 and 307 I.P.C. r/w Section 34 I.P.C.; moreover it is a case at P.R.C. stage; there are no circumstances to allow the petition as prayed for.

5. In view of the contentions putforth by both sides, the point for determination is, whether the proceedings against the petitioner-A.1 in P.R.C. No.16 of 2017 on the file of the Judicial Magistrate of First Class, Banaganapalle, Kurnool District, can be quashed?

6. The material on record reveals that the *de facto* complainant is a resident of Nandivargam village, Banaganapalli Mandal. He is living

by agriculture. The Government has given him Acs.2-50 cents of land in the name of Mala Suraboina Jayamma (L.W.2) and issued D-Patta. The land is situated near Alugu vagu, outskirts of Nandivargam village. In respect of other land in the same survey number, D-Patta was given in the name of one D.Pullamma, who is mother of the accused. Suraboina Jayamma (L.W.2) used to cultivate the land given to her and they have disputes with the accused and the petitioner-accused quarreled with regard to the land. Finally, on 01.07.2017 morning, the petitioner-A.1 along with A.2 armed with axe and sickle respectively, attacked the *de facto* complainant. The petitioner-A.1 scolded the *de facto* complainant thrown the axe on the ground, caught the *de facto* complainant tightly and when Suraboina (L.W.2) intervened, A.2 hacked on the head of the *de facto* complainant with an intention to kill her and caused bleeding injuries. In the meanwhile, the other persons thereby intervened, then the petitioner-accused left the scene. The *de facto* complainant was shifted to Government Hospital and he suffered simple injuries. On completion of investigation, the investigating officer filed charge sheet against the petitioner-A.1 and A.2 for the offences under Sections 324 and 307 I.P.C. r/w Section 34 I.P.C. There are specific overt acts against the petitioner-A.1. There are also statements of witnesses supporting the *de facto* complainant with regard to the attack made by the petitioner-A.1 and another accused in this case. In the circumstances, it cannot be said that there are no allegations to proceed against the petitioner-A.1 for the offences under Sections 324 and 307 I.P.C. r/w Section 34 I.P.C. The innocence or otherwise of the petitioner-A.1 can only be determined after trial. Under these circumstances, the petition is devoid of merit and it is liable to be dismissed.

7. The Criminal Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

14th February, 2018
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