

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No. 8526 of 2011

O R D E R :

This Criminal Petition is filed under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.211 of 2011 on the file of II Additional Judicial Magistrate of I Class Tenali.

2. Brief facts of the case are that Bollu Mallikharjuna Rao who is Accused No.1 in the Charge Sheet and who is father of the 1st petitioner / A2 herein is doing commission business at Tenali Vegetable Market. He borrowed Rs.1,90,000/- on 08.03.2008, Rs.96,000/- on 17.03.2008, Rs.2,00,000/- on 10.06.2008, Rs.1,50,000/- on 16.06.2008 and Rs.1,25,000/- on 05.07.2008 respectively from the 2nd respondent / *de facto* complainant and got executed promissory notes by his son – 1st petitioner / A2 herein. As it was delayed in re-paying the amounts to the 2nd respondent and the 2nd respondent was in dire need of money, he informed the same to K.Pitchaiah who is to convince Accused No.1 to arrange money to him. As the A1 invited the 2nd respondent to his house for repayment of the amounts, on 08.07.2010, the 2nd respondent and his daughter Ganne Sindu Sri went to the house of the accused A1 at 11 am. When the 2nd respondent went to the house of the accused A1, the 1st petitioner / A2 and the 2nd petitioner/A3, who is the wife of the accused A1 are present in the house. In order to cheat the 2nd respondent the accused A1 told the 2nd respondent that the dates noted by him were not tallying with the dates of the

promissory notes, saying so, he asked the 2nd respondent to give the promissory notes on the pretext of verifying the dates. Believing the words of the accused A1, the 2nd respondent innocently handed over the 5 promissory notes as noted above. All of a sudden, the accused A1 started tearing off the revenue stamps from the promissory notes on which the signature of his son A2 were existing. When the 2nd respondent imagined about the dishonest intention, he objected the activity of tearing off the stamps from the promissory notes worth of Rs.7,61,000/-. In the meantime, when the daughter of the 2nd respondent Sindhu Sri tried to rescue her father then the accused-A2 slapped on her cheek and insulted her, while A3 assaulted with hands. The 2nd respondent and his daughter Sindhu Sri informed the facts to K.Pitchaiah about the occurrence and then reported the matter to police on 04.10.2010. As per the complaint and the charge sheet, the 1st petitioner / A-2 slapped and pulled the chunni by caught hold the hair and also abused the daughter of the 2nd respondent. The investigating officer, after thorough investigation, filed charge sheet No. CC 211/2011 against the petitioners under Sections 420, 427, 323, 506, R/w 34 IPC in Cr.No.169/2010.

3. The case of the petitioners/ A2 and A3 is that all the allegations are directed against A1 and there is only a vague and bald allegation has been made that A2 and A3 had stopped Ganne Sindhu Sri / daughter of the 2nd respondent - Ganne Siva Prasad. In fact the dispute is purely civil in nature, merely because the monies are not returned, the proper procedure is to

file a civil suit, but a criminal complaint is filed only with a view to harass the petitioners / A2 and A3 in the society.

4. The 2nd respondent filed a counter affidavit stating that the 1st petitioner slapped, and pulled the chunny from the person, by caught hold the hair of his daughter and also abused her in a filthy language. The 2nd petitioner beat her daughter with hands and abused her in filthy language. The same was informed to his relatives and thereafter, made a complaint. The police conducted investigation by examining the witnesses the complainant, and his daughter Sindhu Sri, and the neighbour, K.Sarojini who is at the scene of offence and K. Pitchaiah the elder between the parties and laid a charge sheet. The 2nd respondent further contends that in view of the specific allegations in the complaint and the charge, this Hon'ble Court by exercising power under Section 482 of Cr.P.C. cannot quash the complaint.

5. Heard learned counsel for the petitioners and learned public prosecutor

6. Now the point for determination is :

whether there is any *prima facie* material against the petitioners to prosecute them or the 2nd respondent abused the process of the Law.

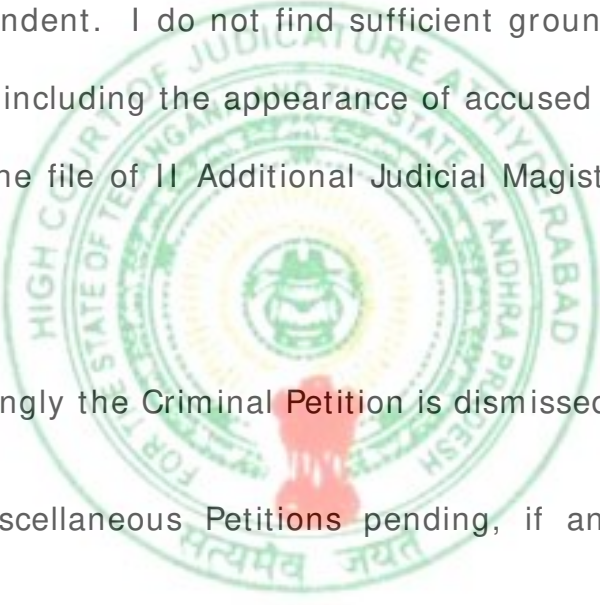
7. The contention of the petitioners is that there is no specific allegations attributed except a vague and bald allegation

has been made that Petitioners / A2 and A3 had stopped Ganne Sindhusri daughter of the 2nd respondent _ Ganne Siva Prasad.

8. In view of the specific allegations against the petitioners that A-2 slapped and also pulled the chunny and abused the daughter of the 2nd respondent in filthy language, I am of the considered view that there is *prima facie* material against the petitioners to prosecute them. Absolutely there is no abuse of process of law or miscarriage of justice by giving complaint by the 2nd respondent. I do not find sufficient ground to quash the proceedings including the appearance of accused in C.C.No. 211 of 2011 on the file of II Additional Judicial Magistrate of I Class Tenali.

9. Accordingly the Criminal Petition is dismissed.

10. The Miscellaneous Petitions pending, if any, shall stand closed.


N.BALAYOGI, J

Dated: 30th January, 2018

JR

