

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.6362 of 2018

ORDER

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in Crime No.297 of 2016 of Tadepalli Police Station, Guntur District, registered for the offence punishable under Section 353 IPC.

The 2nd respondent, the District Educational Officer allegedly lodged report with the police which is subject matter of Crime No.59 of 2016, registered for the offences punishable under Sections 409, 420 and 500 IPC. In view of pendency of Crime No.59 of 2016 for investigation, the Sub Inspector of Police, Pedanandipadu along with his constable went to serve notice under Section 160 Cr.P.C. on the petitioner, who is arrayed as accused, the petitioner refused to receive the same and asked the Sub-Inspector of Police to go away from the MEOs office. Thus, the petitioner deterred the public servant from discharging official duty. On the strength of the complaint, the above crime was registered and issued FIR.

The main contention of learned counsel for the petitioner is that the petitioner was arrayed as accused in Crime No.59 of 2016 and the question of issuing notice under Section 160 Cr.P.C. to him does not arise since such notice to be served on a witness to compel him to appear before the Court or police officer in an investigation, but not on the accused. Therefore, issue of notice under Section 160 Cr.P.C itself is a illegality and when the complainant tendered the notice under Section 160 Cr.P.C. and the petitioner refused to receive notice would not constitute the offence and prayed to quash the proceedings.

No doubt, the petitioner was accused in Crime No.59 of 2016 of Pedanandipadu Police Station registered on the complaint lodged by the District Educational Officer for various offences. As part of investigation, the Sub-Inspector of Police tendered notice under Section 160 Cr.P.C. to

the petitioner, who is arrayed as accused in the said crime. Tendering notice under Section 160 Cr.P.C. is an illegality and such notice is to be served only on the witness compel him to appear before the Court in an investigation and not to the accused. When a notice was tendered illegally, refused to receive the same would not constitute the offence punishable under Section 353 IPC i.e. deterring public servant from discharging his official duties. Therefore, I find that it is a fit case to exercise power under Section 482 Cr.P.C..

Accordingly, the criminal petition is allowed at the stage of admission and proceedings in Crime No.297 of 2016 of Tadepalli Police Station, Guntur District are hereby quashed.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

20.06.2018
kvrm

**M. SATYANARAYANA MURTHY, J**