

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.7085 of 2011

ORDER:

This petition is filed, seeking for quash of the proceedings against the petitioners, who are A1 and A2, in PRC No.14 of 2011 on the file of Judicial Magistrate of First Class, Yemmiganur, Kurnool District. The offences alleged are under Sections 354, 323 r/w 34 IPC and Sections 3(1)(x) of the SC ST (POA) Act, 1989.

2. Heard the counsel for the petitioners and the Public Prosecutor, appearing for the 1st respondent. None appears for the 2nd respondent in spite of notice.

3. The counsel for the petitioners submits that petitioner/A1 is no more. As regards, the 2nd petitioner, he submits that the offence is not attracted, as the offence has to be committed in public view.

4. But, in the considered opinion of this court, the said aspect has to be decided only after letting in sufficient evidence. Moreover, the charge sheet was already filed in this case. Hence, the 2nd petitioner can, as well, seek for discharge before the lower court, if he so desires. Hence, in view of the *prima facie* case that appears from the complaint and also in view of the fact that the charge sheet was already filed, this court opines that this is not a fit case for quashing the proceedings against the 2nd petitioner.

5. Accordingly, the Criminal Petition insofar as 1st petitioner is concerned, is allowed as abated and that of 2nd petitioner is dismissed. Interim stay granted by this court on 27.08.2011 in CrI.P.M.P.No.7346 of 2011, shall stand vacated.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

T. RAJANI, J

August 14, 2018
LMV

