

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12032 of 2017

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.3, seeking to quash the proceedings against him in S.C.No.129 of 2012 pending on the file of II Additional Sessions Judge, Kadapa at Proddatur.

2. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. Learned counsel for the petitioner submits that the petitioner is an innocent person and he has nothing to do with the alleged offences. The petitioner is implicated in this case, afterthought. There are no allegations in the First Information Report lodged with the police. There is an inconsistency in the prosecution case. It is also stated that the second respondent herein managed other accused by offering money and the second respondent intended to avoid payment of lakhs of rupees due to the petitioner-A.3. This petitioner is unnecessarily made as accused No.3 in this case and ultimately, prayed to quash the proceedings.

4. Learned Assistant Public Prosecutor opposed the same.

5. Admittedly, in the F.I.R., the petitioner-A.3 is not shown as an accused. The accusation relates to kidnap of J.Prakash, who is a Project Manager, working in L & T Company, Railways Department. During the course of investigation, accused Nos.1

and 2 were arrested at Pamuluru Village. The police recorded their confessions and seized cash of Rs.6,50,000/- from the possession of accused Nos.1 and 2 and also seized one Sony Erickson Cell Phone and sim card from accused No.1. In the confession of accused No.1, it was stated about the active role played by the petitioner-A.3 with regard to kidnapping of the said J.Prakash and the petitioner-A.3 was also arrested. He confessed the commission of the offence. Pursuant to the confession, cash of Rs.8,00,000/- and one Nokia cell phone having sim card of Airtel bearing No.9000019608 were seized. There are also other witnesses to state with regard to the active role played by the petitioner in the instant case. Merely because his name is not mentioned in the F.I.R., it cannot be held that he is not connected with the subject crime. Further, in the F.I.R., there is no mention of name of the suspects and accused No.1 was the former driver working with L & T Railways. There is also specific allegation against the petitioner-A.3 that a Bolero Vehicle bearing No.AP 04 TV 5393, which is belonging to the *de facto* complainant, was arranged to L & T Company. The petitioner was working as Sub-Contractor and used to undertake the work at the instance of *de facto* complainant. He suffered loss to the tune of Rs.8,00,000/-. He intended to teach a lesson to the *de facto* complainant and so, he hatched a plan with the other accused in this case. There are allegations of petitioner-A.3 playing a key role in the subject case. Therefore, it is difficult to hold that the petitioner-A.3 has nothing to do with the alleged subject crime. The petition is devoid of merits and it is liable to be dismissed.

6. In the result, the Criminal Petition is dismissed.
Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 06.03.2018
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