

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO: 7652 OF 2021

Between:

1. Mudavath Jithender, S/o.Mudavath Pulya Aged about 36 years, occ. Agriculture, R/o. Rajapeta Pedhathanda village, Wanaparthy Mandal and District.
2. Mudavath Lokya, S/o.Pulya Aged about 56 years, Occ. Agriculture R/o. R/o. Rajapeta Pedhathanda village, Wanaparthy Mandal and District.
3. Smt. Mudavath Naramma, W/o.Lokya Aged about 52 years, Occ. House wife, R/o. Rajapeta Pedhathanda village, Wanaparthy Mandal and District.
4. Mudavath Naresh, S/o. Mudavath Lokya Aged about 25 years, Occ. Student, Rajapeta Pedhathanda village, Wanaparthy Mandal and District.
5. Smt. Mudavath Jyothi, W/o. Govindu Aged about 24 years, Occ. Agricultural labour R/o. Rajapeta Pedhathanda village, Wanaparthy Mandal and District.
6. Mudavath Badrinath, S/o. Pulya Aged about 49 years, Occ. Govt.employee R/o. H.No.41-120/6, NTR Colony, Wanaparthy Mandal and District.

...PETITIONER/ACCUSED 1 TO 6

AND

1. The State of Telangana, Rep by its Public Prosecutor, High Court at Hyderabad.
2. Mudavath Kotya, S/o.Pulya Aged about 32 years, Occ. Agriculture, R/o. Rajapeta Pedda Thanda, Wanaparthy Mandal and District.

...RESPONDENT/COMPLAINANT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the criminal proceedings in C.C.No.24 of 2017 in Crime No.64/2016 of PS Wanaparthy Rural, Mahaboobnagar District, on file of the Judicial First Class Magistrate At Wanaparthy.

I.A. NO: 2 OF 2021

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including appearance of the Petitioners/Accused Nos.1 to 6 herein in C.C.No.24 of 2017 in Crime No.64/2016 of PS Wanaparthy Rural, Mahaboobnagar District, on file of the Judicial First Class Magistrate At Wanaparthy.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri V RAGHUNATH Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No. 1 and NONE for the Respondent No. 2.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.7652 OF 2021

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A1 to A6 seeking to quash the proceedings against them in C.C.No.24 of 2017 on the file of Judicial Magistrate of First Class, Wanaparthy, wherein cognizance was taken for the offences punishable under Sections 427, 324 and 504 read with 34 of I.P.C.

2. Heard the learned counsel for the petitioners/A1 to A6, learned Assistant Public Prosecutor appearing for respondent No.1/State and perused the record.

3. Learned counsel for the petitioners/A1 to A6 would submit that the subject report was lodged as a counter blast to the Suit filed by the wife of petitioner/A6. The allegations levelled in the subject report do not constitute the alleged offences. Charges are not yet framed by the trial Court in the subject C.C. There are no grounds to frame charges and proceed with. The entire case of the prosecution is false. The dispute between the parties is civil in nature. Further, there is a delay of 26 days in lodging the report. On that ground itself, the proceedings in the subject C.C. are required to be quashed and ultimately, prayed to allow the Criminal Petition as prayed for.

4. On the other hand, the learned Assistant Public Prosecutor representing the respondent No.1/State opposed to grant the relief sought for and contended that since charges are not framed in the

subject C.C., the petitioners/A1 to A6 can file an application under Section 239 Cr.P.C. seeking discharge, if they choose to do so.

5. The material placed on record requires a detailed examination and that can be undertaken by the trial Court. It is pertinent to state that since charges are not yet framed by the trial Court in the subject C.C. and a hearing is contemplated before charges are framed, the petitioners/A1 to A6 are entitled to raise all the grounds before the trial Court that are proposed to be raised herein. According to Sections 239 and 240 Cr.P.C, if the Magistrate, upon considering the police report and the documents sent with it under Section 173 and making such examination, if any, of the accused as he thinks necessary and after giving the prosecution and the accused an opportunity of being heard, considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing. Conversely, if the Magistrate finds that there is a ground for presuming that the accused has committed the offence triable by him, shall frame charge in writing against the accused. Therefore, the petitioners/A1 to A6 can file comprehensive application/s under Section 239 Cr.P.C before the trial Court raising the grounds to terminate the proceedings, if they choose to do so. If there are no grounds to frame charges, the petitioners/A1 to A6 are entitled for discharge, in accordance with law. It is for the trial court to record a finding to that effect. The Hon'ble Apex Court has time and again deprecated the practice of invoking the inherent jurisdiction by the High Court under Section 482 Cr.P.C., when an effective and efficacious

remedy is available to the accused before the trial Court. The power under Section 482 Cr.P.C is required to be exercised with abundant caution and care. In the instant case, no extraordinary or special circumstances do exist to determine the contentions raised. In the given circumstances of the case, when an effective and efficacious remedy is available to the petitioners/A1 to A6 under a particular provision of law, it is not appropriate to exercise the inherent jurisdiction of this Court under Section 482 Cr.P.C.

5. With the above observations, this Criminal Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

//TRUE COPY//

Sd/-T.KRISHNA KUMAR
ASSISTANT REGISTRAR
Go
SECTION OFFICER

To,

1. The Judicial first Class Magistrate at Wanaparthy.
2. The Station House Officer, Ps Wanaparthy Rural, Mahaboobnagar district.
3. One CC to SRI. V RAGHUNATH Advocate [OPUC]
4. Two CCs to the PUBLIC PROSECUTOR, High Court of Judicature at Hyderabad. [OUT]
5. Two CD Copies.
6. One Spare Copy

TL

HIGH COURT

DATED:26/10/2021



ORDER

CRLP.No.7652 of 2021

DISPOSING OF THE CRIMINAL PETITION

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K. M. S.
07/12/2021