

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.4323 of 2015

ORDER :

The criminal petition is filed by the petitioner/accused under Section 482 Cr.P.C to quash proceedings in C.C. No.171 of 2014 on the file of the XXV Metropolitan Magistrate, Cyberabad at Miyapur, Ranga Reddy District which is the outcome of the report of the 2nd respondent/defacto-complainant in Crime No.636 of 2013, dated 04.07.2013 of Madhapur Police Station registered for the offences punishable under Sections 354(A) and (D) of I.P.C.

2) Heard the learned counsel for the petitioner and the 1st respondent-State represented by Public Prosecutor before admission, before ordering notice to the 2nd respondent and perused the entire material on record including the charge sheet and the report of the defacto-complainant and the so called experience certificate of the petitioner and medical record of him. A perusal of the report of the defacto-complainant addressed to the S.H.O, Madhapur, dated 04.07.2013 clearly reveals for the past six months, the accused has been harassing by sending e-mails and giving phone calls and also sending messages and even warned including through her husband of no avail and he was threatening her like anything to commit suicide or to die in the hands of her husband to kill and after investigation, the police filed final report that was taken cognizance. L.Ws-1 and 2 are defacto-complainant and her husband and as per charge sheet, their statements not even filed before this Court. L.Ws 3 and 4 are panch witnesses in relation to the so called disclosure by accused and seizure, the panch also not filed before this Court. L.Ws 5 and 6 are the investigating officers, who registered the crime and investigated the case in filing the case supra.

3) So far as the documents which are foreign to the prosecution material filed by the petitioner/accused concern, it is an experience

certificate dated 26.07.2013 of he has been working sincerely for the past five years or so and the other document is Department of Orthopedic discharge summary. In pleading *alibi*, it is premature to decide the so called *alibi* in a quash proceedings in view of Section 11 of Indian Evidence Act and that too under Section 106 of the Indian Evidence Act, burden is on the accused to plead and prove the *alibi* as part of defence by preponderance of probabilities. The experience certificate is no way concern with the acts committed against the victim. It is not even a bonafide certificate of certifying his conduct.

4) Having regard to the above, the material falls short to admit for this Court to quash the calendar case proceedings and hence the same is dismissed. Needless to say, if there are no grounds to frame charge from the prosecution material, remedy is left open to seek for discharge before the learned Magistrate. Consequently, the miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.11th September, 2015

KSH