

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**CRIMINAL REVISION CASE No.435 OF 2016**

**ORDER:**

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. Assailing the order dated 12.01.2016 passed in CrI.M.P.No.1198 of 2015 in S.C.No.198 of 2013 by the Principal Assistant Sessions Judge, Kadapa, wherein and whereunder the application filed under Section 311 Cr.P.C., to recall PW.4 was rejected, the present revision is preferred.

3. The respondents-accused were charged for the offences punishable under Sections 324, 354 and 506 read with 34 IPC. After completion of investigation, police filed a charge sheet, which after committal came to be numbered as Sessions Case No.198 of 2013.

4. After completing the prosecution evidence, the accused were examined under Section 313 Cr.P.C., and it was posted for arguments. At that stage, the informant filed an application under Section 311 Cr.P.C., to recall PW.4-doctor for further cross-examination. The said application was filed with a view to elicit inconsistencies, in the opinion furnished by PW.4 with regard to timing of the injuries. After hearing both sides, learned Sessions Judge dismissed the application. Challenging the same, the present revision is filed.

5. Learned counsel for the revision petitioner mainly submits that having regard to the facts and circumstances of the case, recalling of PW.4 for ascertaining the actual time of the offence is *prima facie* essential for a just decision of the case.

6. The same is opposed by the learned counsel for the respondents/accused.

7. A perusal of the material on record, more particularly, the evidence of PW.4 would show that he examined the informant on 06.10.2007 at about 5:15 P.M., and found six injuries on the body. He found all the injuries simple

in nature and would have been caused if a person is beaten with hands. Ex.P.2 is Wound Certificate issued by him. During the course of cross-examination, the witness adds that the alleged injuries were fresh in nature and might have been received 3 to 4 hours prior to his examination. Ex.P.2-Wound Certificate, which has been marked through him shows that the injuries are simple in nature and might have been received less than 24 hours and more than 12 hours duration and the injuries are due to assault.

8. From the above, it is clear that the injuries sustained by the informant were simple in nature and due to assault. When the contents of the Wound Certificate are not confronted to PW.4 and disputed by the defence, there is no necessity to recall PW.4 to speak about duration. It is mentioned that the said injuries are possible more than 3 to 4 hours and less than 24 hours from the time of examination. The said aspect was not clarified in the cross-examination since Ex.P.2 clarifies the situation as to when the injuries were sustained.

9. Having regard to the facts in issue and since the case is posted for arguments, it may not be permissible to recall PW.4 for further cross-examination. The informant can always take advantage of Ex.P.2-Wound Certificate, which was marked without any objection. Hence I see no ground to interfere with the finding arrived at by the trial Court.

10. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

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**JUSTICE C. PRAVEEN KUMAR**

Date:15.03.2016

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