

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16303 OF 2016

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to quash the proceedings in C.C. No.243 of 2016 pending on the file of II Additional Metropolitan Magistrate, Hyderabad, for the offence punishable under Section 324 of Indian Penal Code, 1860 (for short 'I.P.C.').

The main challenge in the petition is that during investigation, the investigating officer did not recover any weapon allegedly used in the commission of an offence i.e. iron rod, and the injuries sustained by the victim are only simple in nature, as mentioned at page 3 of the charge sheet.

During hearing, learned counsel for the petitioner reiterated the same and contended that, when no weapon is seized and the injury is simple in nature, the petitioner is not liable for the offence punishable under Section 324 I.P.C.

No doubt, as seen from the allegations made in the charge sheet, the injury sustained by the de facto complainant/ first respondent herein, is simple in nature. Even then, it would attract the offence under Section 323 I.P.C.

In **STATE OF HARYANA VS. BHAJAN LAL**¹ the Apex Court laid down certain guidelines, wherein at guideline No.1 it was held that where the allegations made in the first information report or the complaint, even if they are taken at their face value

¹ (1992) SUPP (1) SCC 335

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and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

In view of the principle laid down by the Apex Court in the Judgment referred above, it is clear that if the allegations makes out any offence, then this court cannot exercise jurisdiction under Section 482 Cr.P.C., even if the contention of the petitioner is accepted, the allegations made in the charge sheet would constitute an offence punishable under Section 323 I.P.C., and on the other hand, though charge was framed for an offence punishable under Section 324 I.P.C., if the court, after trial, found that petitioner committed an offence punishable under Section 323 I.P.C., the court can convict and sentenced him for the lesser offence, though charge was framed for the offence punishable under Section 324 I.P.C.

Therefore, I find no ground to quash the proceedings in C.C. No.243 of 2016 at this stage, while exercising inherent jurisdiction under Section 482 Cr.P.C. and consequently the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 28.11.2016

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