

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.40641 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to declare the action of respondent No.2 in altering section of law from Section 304-A I.P.C. to Sections 304-II, 326, 354-D and 506 read with 109 I.P.C. against the petitioners in Crime No.361 of 2015 on the file of Abids Police Station, Hyderabad as illegal and arbitrary and consequently, to set aside the same.

2. Heard and perused the material available on record.
3. Case of the petitioners is that respondent No.3 filed a false complaint against them before respondent No.2 and the same was initially registered as the aforementioned case for the offence punishable under Section 338 I.P.C. and later, the section of law was altered from Section 338 I.P.C. to 304-A I.P.C.; that the police have further altered the section of law from Section 304-A I.P.C. to Sections 304-II, 326, 354-D and 506 read with 109 I.P.C.; that on 5.11.2015, they only travelled in a car which met with an accident and the person, who was injured, subsequently, died in the hospital; that admittedly, as per the F.I.R., it was only accused No.1, who was driving the car in question; that they have nothing to do with the alleged accident; that they are students and respondent No.2 is trying to arrest them without following the due process of law and hence, prays to alter the sections as prayed.
4. Learned Assistant Government Pleader for Home submitted that on the basis of the said complaint, a case was registered

against the petitioners and respondent No.2 is investigating the matter in accordance with law.

5. The driver of the vehicle in question/A-1 was already arrested and released on bail. Though the incident took place in the month of November, 2015, till date, the police concerned have not arrested the petitioners. The petitioners are college students and they informed that they are ready to cooperate with the investigation. Considering the facts and circumstances of the case and the grievance of the petitioners, without expressing any opinion on merits, respondent No.2 is hereby directed to complete the investigation in the aforementioned crime and file a final report, in accordance with law in either way, without arresting the petitioners. The petitioners are directed to appear before respondent No.2 and execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) each with one surety for the like sum each for their appearance as and when required for the purpose of investigation.

6. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

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

JUSTICE RAJA ELANGO

14.12.2016
AMD

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Date: 14.12.2016

AMD