

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.14571 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") for quashing the proceedings in C.C.No.395 of 2016 on the file of VI Additional Chief Metropolitan Magistrate at Nampally, Hyderabad District, registered for the offence punishable under Section 324 read with 34 of Indian Penal Code (for short "I.P.C.")

The petitioners are blood relations. Defacto complainant Smt.Anitha submitted a report on 29.03.2016 at 12.00 hours alleging that her husband Krishna was having affair with sister-in-law by name Shoba Rani and that the defacto complainant told her husband that they have three daughters and it is not right way to lead the life. But her husband was continuing the said affair. On 28.03.2016 at about 07.00 p.m. the complainant along with her second daughter Beena went to her mother's flower shop at Langer House Market and asked Shoba Rani about the affair and told that it is not a right way of leading life, on that the said Shoba Rani and her sister called her husband, then her husband came and took the defacto complainant to her house and beat her with pipe and knife.

During investigation police recorded the statements of witnesses and referred the injured to Area Government Hospital, Golconda, Hyderabad for their treatment and after examination Doctor issued wound certificate dated 25.04.2016 certifying that there is swelling, but no grievous injury is found.

Basing on the said wound certificate, it is contended by Sri B.V.S.S.B.K.Ranjit, the learned counsel for the petitioners that no case is made out for the offence punishable under Section 324 of I.P.C.

Even if no grievous injury is found, it would fall within the ambit of Section 323 of I.P.C. Though charge is framed for the offence punishable under Section 324 of I.P.C., if failed to establish grievous injury, the accused can be punished under Section 323 of I.P.C. if there is simple injury.

Therefore, it is not appropriate to quash the proceedings in C.C.No.395 of 2016 on the file of VI Additional Chief Metropolitan Magistrate at Nampally, Hyderabad District. Hence, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

At this stage, learned counsel for the petitioners requested to dispense with the presence of the petitioners, but in view of the limited scope of the petition, I am not inclined to pass such order. However, liberty is given to the petitioners to file an application under Rule 37 of Criminal Rules of Practice and on filing such application, the Magistrate concerned is directed to decide the matter in accordance with law.

JUSTICE M. SATYANARAYANA MURTHY

Date:17.10.2016
Ksp