

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.3540 OF 2016
ORDER:

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This Criminal Petition is filed by the accused No.1 to 3 under Section 482 of Cr.P.C. seeking to quash the proceedings in C.C.No.504 of 2014 pending on the file of I Additional Judicial Magistrate of First Class, Nizamabad for the offences under Sections 290, 323 and 506 IPC.

The only ground on which the learned counsel for the petitioners seeks to quash the impugned proceedings is that as per the First Schedule of Criminal Procedure Code, the offences under Sections 290, 323 and 506 IPC are non-cognizable and therefore, the police should not investigate a non-cognizable offence under Section 155(2) Cr.P.C. without the order of the magistrate concerned.

As rightly argued by the learned counsel for the petitioners, as per the provisions of Criminal Procedure Code, in a non-cognizable offence, without the permission of the magistrate concerned, police have no power either to investigate or to file a report. Admittedly, in the present case, there is no permission from the magistrate concerned for the purpose of investigation and the police have already filed a charge sheet in the case. In the circumstances, the impugned proceedings are liable to be quashed.

In the result, the Criminal Petition is allowed and the proceedings in C.C.No.504 of 2014 pending on the file of I Additional Judicial Magistrate of First Class, Nizamabad are hereby quashed as against the petitioners herein.

Consequently, miscellaneous petitions, if any, pending,

shall stand closed.

JUSTICE RAJA ELANGO

01.04.2016

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