

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2805 OF 2017

ORDER:

Requesting to quash the First Information Report in Crime No.425 of 2016, dated 4.7.2016 of Ongole Taluk P.S., Prakasam District, the petitioner/2nd accused filed the present petition under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code').

2. The petitioner, who is arraigned as accused No.2, alleged to have committed the offence punishable under Section 324 read with Section 34 of I.P.C.

3. Heard Sri M. Subba Reddy, the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioner would submit that no overt acts have been attributed to the petitioner. It is according to him, that originally the offence punishable under Section 324 read with Section 34 of IPC was registered against the petitioner and one Maddela Sivarama Krishna (A-1).

5. The 2nd respondent/*de facto* complainant filed second statement on 3.8.2016, thus a month after his compliant dated 3.7.2016, and, basing on the same police altered Section of law by addition of Section 3 (1) (r) (s) and 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

6. The learned counsel for the petitioner would submit that the petitioner in this case was enlarged on bail on 28.3.2017 in CrI.M.P.No.33 of 2017, and in fact the petitioner was in jail for more than one month and on PT warrant he was arrested in Crime No.425 of 2016 and remanded to judicial custody.

7. The learned Assistant Public Prosecutor for the State of Andhra Pradesh would strongly resist the request of the petitioner so far as the offence under Section 324 read with Section 34 of IPC is concerned, First Information Report was registered basing on the statement made by the *de facto* complainant while undergoing treatment in the hospital, which was reduced into writing by the investigating officer. In fact, he sustained head injury and wrist injury when he was beaten with sticks by the accused persons and also in fact overt act attributed to the petitioner is by the *de facto* complainant by holding his hands backwards to prevent the *de facto* complainant from moving, during which time he was hit by the 1st accused, who is not a party to the present petition. This statement was reduced into writing. It is true, one month later he approached the police by filing a complaint setting out the reason that since he was undergoing treatment as he received head injury and the Medical Officer has administered tranquilizer he was unable to tell the petitioner and other accused abused him by taking his caste, basing on which, the offences under the provisions of the Special Act were also added.

8. Now, the question is whether the same accounts for quashment of First Information Report in Crime No.425 of 2016 in its entirety or

to the extent of the offences under the Special Act can only be quashed.

9. The statement of fact where the medical officer injected or giving sedative injunction at the time when he made earlier statement accounts for a disputed fact, now associated with as to on what date the complainant gained knowledge as to clutching the offence under Section 324 read with Section 34 of IPC alone leaving out that he did not make a mention in the complaint to the police about the accused abusing him by taking his caste. These are all the factual aspects and all can be dealt with during the investigation by the investigating after collection of evidence to ascertain truth or otherwise in the statement made by the *de facto* complainant.

10. No doubt, it gives rise to a suspicion, but it is not the stage to quash the First Information Report basing on the particular feature taking into account of the inordinate delay, but supported by some sort of explanation, there is no merit in the present petition.

11. The Criminal Petition is, therefore, dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 24.04.2017
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