

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.345 OF 2017

ORDER:

The present petition is under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Code'), requesting to quash the order, dated 09.01.2017 passed by the learned III Additional Chief Metropolitan Magistrate, Hyderabad in CrI.M.P. No.3953 of 2016 in C.C. No.2721 of 2010 filed under Section 311 of the Code by the complainant whereby and where-under, the request to recall PW.8 - Medical Officer and Sub-Inspector of Police was rejected.

2. The complainant also filed CrI.M.P. No.3954 of 2016 under Section 242 (2) of the Code to receive the documents; i) certified copy of the letter dated 09.09.2015 addressed by Dr. Ramakrishna (PW.8) to the Sub-Inspector of Police, S.R. Nagar Police Station; ii) Photostat copy of injury certificate issued by PW.8 to the effect that the injuries sustained by the petitioner - *de facto* complainant being opined as grievous in nature; and iii) the original prescription issued by Dr. Raju B.S.V., who said to have treated PW.1 on the ground that they are necessary to establish the charges against respondent No.3 - accused, which is also dismissed along with the aforesaid petition under Section 311 of the Code by way of a common order.

3. Heard Sri Pottigari Sridhar Reddy, learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State of Telangana.

4. Perused the order and the material on record.

5. The submission of the learned counsel for the petitioner has been, that when the medical certificate issued by PW.8 mentioning that the injuries sustained by the petitioner were grievous in nature, the Court ought not to have rejected it and ought to have received the same. He also submits that the response of the Medical Superintendent of Prime Hospital, who was asked to produce original medico legal case record of PW.1, came to the Court and reported that the original of the said MLC was lost and could not be traced out, but, according to the status report of the case, Dr. Prabhakar Murthy, RMO of Prime Hospital sought time on 22.12.2016 to produce the case sheet of PW.1, and that the Court even recalled PW.8 and posted to 29.12.2016 and, therefore, it cannot be said that record is not available.

6. A perusal of the order would show that the Court below has recorded definite findings stating that the injuries sustained by PW.1 were not grievous in nature and Dr. Ramakrishna, who has given the letter, certified copy of which is filed, dated 09.09.2015, has not given conclusive opinion that PW.1 sustained grievous injuries and simply

mentioned that the facial injury may lead to disfigurement in future, and since the learned Magistrate when examined PW.1 in Court has had the occasion to see him and found no such disfigurement on the face, holding that it cannot help the prosecution to establish the nature of injuries sustained by PW.1 was grievous in nature and dismissed both the petitions.

7. The findings recorded by the learned Magistrate cannot be upset and, in fact, the Medical officer was not right in issuing such certificate referring to the futurity, that too, stating that the facial injury may lead to disfigurement in future, unless he was certain that the injury absolutely would lead to disfigurement. Therefore, the learned Magistrate has rightly rejected both the requests and, certainly, the common order passed by the learned Magistrate does not suffer from any legal infirmity warranting interference by this Court in exercise of the extraordinary power under Section 482 of the Code.

Therefore, the Criminal Petition is dismissed. As a sequel thereto, Miscellaneous Petitions, if any, pending in the petition, stand closed.

A. SHANKAR NARAYANA, J

January 23, 2017.
Mgr