

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2172 of 2017

ORDER:

The present petition, under Section 482 of the Code of Criminal Procedure, 1973 is filed by the petitioner/accused No.1 requesting to quash the First Information Report in Crime No.146 of 2016 of Godavarikhani-II Town Police Station, Karimnagar.

The petitioner along with accused Nos.2, 3 and some others alleged to have committed the offences punishable under Sections 120B and 307 read with 34 of the Indian Penal Code (for short, 'the I.P.C').

Sri Gone Ramesh, learned counsel for the petitioner, would submit that, in fact, the petitioner was under treatment as an inpatient in MedCare Hospital, Karimnagar, having been admitted on 21.09.2016 and discharged on 30.09.2016, and, therefore, the question of the petitioner's presence at the place of occurrence at the relevant time, as alleged by the *de facto* complainant or the police, as the case may be, does not arise. Learned counsel also filed photostat copies of the Hospital records.

The question to be considered now is whether the plea of alibi taken by the petitioner can be acceded to at this stage?

The authenticity or otherwise of the medical documents filed along with the petition can only be examined either during the course of investigation or at the trial of the case, in case charge sheet is filed.

Further, the complaint averments show a serious offence of attempt to murder. Therefore, the submission of learned counsel for the petitioner cannot be accepted for the present for the purpose of quashing the FIR so far as the petitioner is concerned.

Concerning further submission of the learned counsel for the petitioner that prior to the present crime, Crime No.143 of 2016 of Godavarikhan-II Town Police Station was registered by the Inspector of Police, Godavarikhani-II Town Police Station, against the petitioner and others, for the offences punishable under Sections 309 and 290 read with 109 I.P.C, though, the learned counsel would submit that only on account of the brother of respondent No.2 herein, the petitioner was made to consume poison, the said aspect relates to factual aspect and, therefore, it cannot be given credence at this stage to quash the complaint. Therefore, the present petition is liable to be dismissed as it is a case where abuse of process of law cannot be viewed and investigation will have to go on.

Accordingly, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in the present petition, stand closed.

JUSTICE A.SHANKAR NARAYANA

16.03.2017

v v