

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.49 OF 2017

ORDER:

The petitioner is the sole accused of C.C.No.348 of 2015 by name O.R.Keerthi Chaitanya, a student of M.V.S.R. Engineering College, Nadergul, Ranga Reddy District, within Adibatla Police Station limits of Ibrahimpatnam Magistrate court jurisdiction.

2. The cognizance taken by the learned Magistrate from the police final report after investigation is for the offences under sections 341, 323, 506 and 504 of IPC from the crime registered as Crime No.84 of 2015, on 25.04.2015, for the alleged occurrence at 11.00 pm., on 21.04.2015, in the said college premises and the FIR, after said four days delay by the mother of so-called victim, was against O.R.Keerthi Chaitanya (revision petitioner) and two others, neither FIR mentions the two others nor even charge sheet, much less, by showing in abscondence said two others, even in mentioning Section 34 IPC, either in FIR or even in charge sheet, as the case may be. The report of the mother of the so-called victim, as *de facto* complainant, reads that her son Harsha Vardhan Reddy (L.W.2), so-called victim, studying 2nd year B.Tech., in the said college and that on 21.04.2015 at about 11.00 pm., three persons threatened her son by wrongfully restrained and

abused in filthy and bet with hands due to previous enmity of them and one of them identified as O.R.Keerthi Chaitanya and remaining two persons are to be identified, whenever she will see, hence to take action. The FIR is registered for the offences supra r/w. section 34 IPC on 27.04.2015 at 02.00 pm. What she stated is three persons threatened and wrongfully restrained her son and one of the three persons is O.R.Keerthi Chaitanya. She did not name any others. It is the sayings that to set the law in motion in registering the crime for the offences supra, the so-called victim/her son, was examined as L.W.2, during investigation on 28.04.2015 at the police station. His statement reads that on 21.04.2015, in their college, when there was annual day function of Sangamam-2015, while cultural programme was going on, he was there and one unknown person called as 'Harsha come here' and he went there and he felt somebody on his back of neck bet and he rushed into the people there towards the stage of the programme and informed over phone to Madhu Naik and he cannot say who was the person that bet, but one Siva Charan Reddy, who was there taken away the persons and Madhu Naik came there to his phone call sent away the persons thereby pacified the issue. After completion of the programme/fest, he went home and informed the same immediately to his mother. From this portion of his

statement, it is clear that his mother is not an eye witness at all to the occurrence. The FIR speaks as if.

3. Coming to his further statement, his mother enquired on next day 22.04.2015 and informed him that the person who bet him was one O.R.Keerthi Chaitanya and he never heard that name, much less, saw that person and even he cannot identify the person who bet him, but for to give some features of he was short in height and with some marks on the face and there were two more persons with him and one of them wore spectacles and his mother went on 22.04.2015 to the college principal and informed the same and because it was in darkness, he cannot say who called him by name, he felt that some known person might have been called him and went and he identified only Shiva Charan Reddy.

4. Earlier there was some petty quarrel and his mother came to the college and compromised and at the time of compromise feeling that there was some injustice to one person by name Kranthi, by keeping the same in mind, the brother of said Kranthi by name Shiva Charan Reddy, might have instigated his friends in cause beating him. However, unaware of it, to protect himself he went to Shiva Charan Reddy and he came to know that her mother complained to the police.

5. Even from the above said statement of him, at best, for the police, during investigation, if at all to register any crime, it must be against Siva Charan Reddy, even on suspicion and to investigate Siva Charan Reddy and even the police have to investigate, if at all, there are any petty quarrels with Kranti and how he became victim in the hands of the present L.W.2 i.e., son of the *de facto* complainant, for his such a statement of the earlier grouse of Shiva Charan Reddy developed against him to suspect. Furthermore, when he telephoned to Madhu Naik and according to him Madhu Naik came there and pacified the issue and sent away the persons. Madhu Naik is a material witness. Madhu Naik not even examined by Investigating Officer. Even for the mother of this victim, as *de facto* complainant, to set the law in motion to name the revision petitioner O.R.Keerthi Chaitanya, there is no basis. She did not even disclosing in the FIR as how she came to know of O.R.Keerthi Chaitanya, much less, to implicate him.

6. Having regard to the above, there is no basis for the police to file final report or even to take cognizance for any offence against the said O.R.Keerthi Chaitanya (revision petitioner) and without considering the same, even discharge application filed by the said Chaitanya, the learned Magistrate went wrong in dismissing the same, though to sustain the acquisition, at least on face value, it must attract ingredients of any of the sections and however none of the

ingredients attract against him to make him liable for any penal consequence.

7. Accordingly and with the above observation, the discharge petition dismissed is unsustainable and the criminal revision case is allowed. Bail bonds of the petitioner/accused, if any, stand cancelled. Miscellaneous petitions pending, if any, in this case shall stand closed.

DR.B.SIVA SANKARA RAO, J

21.04.2017
SS

