

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL PETITION No.3582 OF 2010

ORDER:

Heard the counsel for the petitioners, Mr.K.Venkat Rao, counsel for Respondent No.1 and Public Prosecutor for Respondent No.2.

The present criminal petition is filed by the petitioners who are accused 1 to 3 in PRC.7 of 2010, seeking to quash the orders dated 22.2.2010 for taking cognizance of the offence under section.307 IPC against the petitioners on the file of the Court of the Judicial Magistrate of First Class, Srikakulam.

The facts of the case are that LW1 is a resident of Oppangi village and living by doing cultivation. The accused who are also residents of Oppangi village were also eking out their livelihood by doing cultivation. While LW1 i.e., the complainant was constructing a house at his site by occupying some portion of Panchayat cement road, there was a dispute between LW1 and the accused. In connection with the said dispute, on 15.11.2008, at about 07.00 hours, the accused, with a common intention, criminally trespassed into the site of the complainant with deadly weapons and caused bleeding injuries on the forehead and skull of LW1 and his brother.

To be precise, the specific averment in the charge sheet is that accused No.1 beat LW1 with crowbar and caused bleeding injury on his forehead, accused No.2 beat LW2 with Sammeta, again Accused No.2 beat LW2 with Kathuva on his right forearm and caused bleeding injury.

The Wound Certificates of Accused No.1 and the Complainant respectively, given by LW11 reads as under:

“A lacerated injury on the centre of head over the scalp of size ¼” X 2” with a depth of 1/4th inch.”

“A lacerated around on the scalp of size ¼” X 3” with a depth of ¼ inch red in colour within a duration of 6 hours.”

A perusal of the said Wound Certificates would indicate that the statement in the charge sheet that the Wound Certificates would indicate that the injuries are simple in nature, may not be correct. It is specifically made out from the charge sheet that the accused, with common intention, criminally trespassed into the site of the complainant and attacked them with deadly weapons. When once the common intention has been established and the injuries are caused on the vital part of the body i.e., the Centre of the head, the contention of the petitioner that the Court below committed an error in taking cognizance of the offence under section 307 IPC is not correct.

Therefore, this Court feels that there is no irregularity or illegality in the order passed by the learned Judicial Magistrate of First Class, Srikakulam, and there are no merits in the Criminal Petition.

Accordingly, Criminal Petition is dismissed.

No order as to costs. Miscellaneous Petitions, if any, filed in this Criminal Petition shall stand dismissed.

JUSTICE P.KESHA VA RAO

Dated: 6.12.2017
KPM