

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.8550 of 2017

ORDER:

Petitioner/A4 seeks to quash the proceedings against him in C.C.No.164 of 2017 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally Criminal Courts, Hyderabad.

2) It is to be noted, in fact, the petitioner/A4 and A1 to A3 were involved in C.C.No.200 of 2014 on the file of XVII Additional Chief Metropolitan Magistrate, Hyderabad for the offences under Sections 324 r/w 34 IPC. Since the petitioner/A4 has absconded, the case against him was split up and numbered as C.C.No.164 of 2017. In the original case i.e. C.C.No.200 of 2014 trial was conducted and as per Judgment made on 28.03.2014 the trial Court acquitted A1 to A3. Hence, now the instant application is filed seeking to quash the proceedings against the petitioner/A4.

3) As can be seen from the judgment in C.C.No.200 of 2014 the trial Court observed that the accused gave a counter complaint in C.C.No.310 of 2013 and the investigation conducted by the Investigating Officer was not proper and his investigation did not disclose who was the aggressor. The trial Court further observed since PW1 was inimical witness, his sole testimony cannot be regarded as sufficient to award conviction and it requires corroboration. Further, PW2 who is the eye-witness did not support the case of prosecution. The trial Court also observed the evidence of PW1 was not consistent for the reason as per Ex.P1 all the

accused assaulted him with sticks and bricks but before the Court he stated accused along with his friends 8 or 9 in number has assaulted him. Thus, there is no fair disclosure of the occurrence by PW1. It observed that though it was clear from the evidence of PW1 some criminal incident has taken place but it was not clear as to how the incident has originated who has beaten whom who was the aggressor in the incident. On such observations, the trial Court acquitted A1 to A3. Therefore, there is force in the submission of learned counsel for petitioner that even if A4 goes for trial, there is no possibility of recording conviction against him.

4) In similar circumstances, a learned Judge of this Court in *Nyathari Babu vs. State of Andhra Pradesh*¹ has observed that when there is no possibility of petitioner being convicted when putting to trial the case against him can be quashed.

5) Following the said judgment, this Criminal Petition is allowed and proceedings against the petitioner/A4 in C.C.No.164 of 2017 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad are quashed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 18.09.2017
Murthy

¹ 2015 (1) ALD (CrI.) 587