

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2893 OF 2017

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code'), requesting to quash First Information Report in Crime No.17 of 2017, dated 13.02.2017, of Kosgi Police Station, Kosgi, Mahabubnagar District.

2. The petitioners viz., Purra Dasarath, purra Venkataiah, Purra Vijaya Kumar and Purra Amanna, who are arraigned as accused Nos.1 to 4, respectively, alleged to have committed the offences punishable under Section 323 read with Section 34 of the Indian Penal Code, 1860 (IPC), and subsequently altered the same to the offences punishable under Sections 448 and 326 read with Section 34 of IPC.

3. Heard Mrs. Rachna S. Waddepalli, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

4. The learned counsel for the petitioners would submit that the present complaint is a counter blast to the incident that has taken place, in regard to which, petitioner No.4 has lodged a complaint, based on which, the offences punishable under Sections 324 and 504 read with Section 34 IPC were registered. But, the learned counsel would submit that the offence had taken place on 12.02.2017 at 7.00

a.m., however, at the instance of the Station House Officer, the *de facto* complainant was made to mention the date and time of the incident as 13.02.2017 at 9.00 a.m. This is one of the aspects pointed out by the learned counsel for the petitioners. The second submission is that the medical officer, originally issued a medical certificate, copy of which is filed along with the material papers, which would show description of the injury as 'bruising' and so far as nature of injury is concerned, under vertical column No.6, intended to mention either a simple or grievous depending on examination, though, originally the word "simple" was written, it was struck off and the word "grievous" is written. Thus, learned counsel has pointed out that there has been tampering of the medical report and, in fact, that has been the reason, alteration memo was filed deliberately to club the offence punishable under Section 326 read with Section 34 of IPC. Based on these two instances, the learned counsel for the petitioner seeks to quash the First Information Report itself.

5. The learned Additional Public Prosecutor for the State of Telangana would resist the request.

6. What all stated by the learned counsel concerning striking out the word "simple" and writing the word "grievous" is occurring at the medical certificate; but, again the question is just basing on the correction made, without entering into the arena of evidentiary rule, it is difficult at this stage to accede to the request of quashing the proceedings. Even when the medical officer steps into box, he has to

be confronted with the relevant entry to ascertain the word “grievous” was subsequently introduced purposely to clutch the offence punishable under Section 326 of IPC as against the provision of law under Section 323 of IPC earlier made.

7. The first aspect submitted by the learned counsel again relates to disputed questions of fact, which cannot be projected in an application under Section 482 of Cr.P.C.

8. Unless investigation is taken up, collecting evidences by the Investigating Officer, truth cannot be unravelled. The petitioners are at liberty to place the material touching the submissions made herein before the Investigating Officer. Though, the learned counsel for the petitioner sought to give a direction to the Investigating Officer to resort to the procedure prescribed under Section 41-A of the Code, for the offence punishable under Section 326 of IPC, since the punishment is exceeding seven (7) years, it is difficult to accede to such request. The petition lacks merits.

9. Therefore, the Criminal Petition is dismissed, at the admissions stage itself.

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

A. SHANKAR NARAYANA, J

April 7, 2017.
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