

THE HON'BLE SRI JUSTICE N.BALAYOGI

Criminal Petition No.4910 of 2011

ORDER :

This petition is filed under Section 482 of Cr.P.C. praying to quash the order in Crl.R.P.No.28 of 2010, dated 23.9.2010 on the file of the Metropolitan Sessions Judge, Vijayawada.

The contention of the petitioner/de facto-complainant is that the grounds raised by the 2nd respondent/accused are baseless and there is nothing to show that charges levelled against the accused are groundless and it is clinchingly established that there is specific charge against the accused. The discharge petition filed by the accused before the trial Court was dismissed on 8.3.2010. Against the same, the 2nd respondent/accused filed Crl.R.P.No.28 of 2010 before the Metropolitan Sessions Judge, Vijayawada and the same was allowed on 23.9.2010 without taking into consideration the material on record. The Sessions Judge ought to have dismissed the revision petition since it is a fit case for trial in the light of evidence.

On the other hand, the 2nd respondent/accused contended that there is discrepancy with regard to timing of the injuries caused to the complainant and Philips, the Watchman. In view of discrepancies, the revision court is legal in allowing the petition.

A perusal of the record goes to suggest that the petitioner made a complaint alleging that on 20.1.2006 early morning she heard some

galata and when came out, she found her daughter-in-law Usha with chutney pounder and Usha beat the watchman Philips and also beat her. As a result, she sustained bleeding injuries and when neighbours informed the incident, the ambulance came and shifted them to Government General Hospital for treatment.

Basing on the same, the Police registered a case in crime No.45 of 2006 for the offence punishable under Sections 324 and 452 of I.P.C. and after thorough investigation filed the charge-sheet. In the charge-sheet it was asserted that the respondent No.2/accused is none other than the daughter-in-law of the de facto-complainant. Respondent No.2/accused is living separately with her husband due to ill-feelings. Respondent No.2/accused filed suits against husband and mother-in-law which were pending. While so, on 20.1.2006 early morning at 5.45 AM, respondent No.2/accused came to the house of the petitioner/complainant, knocked the door and when watchman Philips opened the Door, respondent No.2/accused beat the Philips and also the complainant Venkata Lakshmi with chutney pounder.

With regard to the wounds, the wound certificate issued to the petitioner/de facto-complainant shows that the Doctor first seen the complainant at 6.53 AM on 20.1.2006 and commenced examination at 6.55 AM on the same day. In the end of the certificate it is stated that the complainant refused for admission, treatment and x-ray, hence opinion cannot be given, which clearly shows that the petitioner refused for admission in the Hospital. With regard to the wound

certificate of Philips, it is stated therein that he was accompanied by PC 1293 on 20.1.2006 at 5.50 PM. The Doctor first seen him at 8.00 PM on 20.1.2006 and commenced the examination at 8.07 PM on the same day.

The Metropolitan Sessions Judge taking into consideration these discrepancies with regard to timings of examination of the injured persons held that there is no such incident occurred and the case is falsely foisted against the 2nd respondent/accused, who is daughter-in-law of the petitioner/de facto-complainant. He further opined that as the de facto-complainant refused for administering the treatment, no opinion was given, hence that itself shows that the wound certificate is no way helpful to the case of the prosecution. He further observed that the wound certificate issued in favour of Philips shows that he was examined at 8.07 PM on 20.1.2006 and there is a laceration and it is a simple injury and that both de facto-complainant and Philips stated that they sustained injuries by a known person and timings are different.

No doubt, as per the wound certificate the de facto-complainant was examined as 6.55 AM and Philips was examined as 8.07 PM on 20.1.2006 and Philips was produced by PC 1293 on 20.1.2006 at 5.50 PM. Practically there is no discrepancy, but the injured petitioner and Philips were examined in the morning and in the evening respectively. If there is really any discrepancy with regard to timings of examination of injured by the Doctor, it has to be properly explained by the prosecution. Merely because of the discrepancy with regard to the

examination of injured persons, one at the morning and another in the evening, no prejudice will be caused to the accused. After filing the charge-sheet, the Court took cognizance of the case and numbered it as C.C.No.1066 of 2006. Therefore, I find that the order of the learned Metropolitan Sessions Judge, Vijayawada in CrI.R.P. No.28 of 2010, dated 23.9.2010, is illegal, void and suffers from legal infirmities.

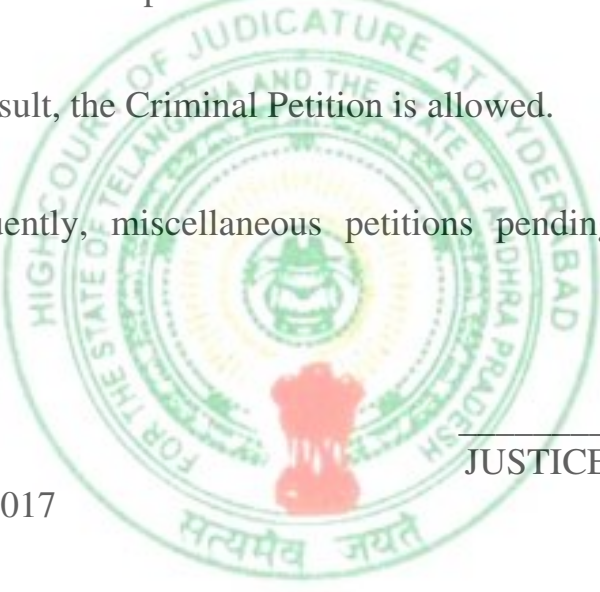
Accordingly, the order, dated 23.9.2010 passed by the Metropolitan Sessions Judge, Vijayawada, is hereby quashed and the trial Court is directed to proceed with the trial.

In the result, the Criminal Petition is allowed.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

12th October, 2017

skmr



JUSTICE N.BALAYOGI