

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.16899 OF 2016

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners - accused Nos.1 and 2 viz., Smt. Balusa Veena and Balusa Sai Teja requesting to quash the proceedings against them in Crime No.199 of 2016 on the file of Chinna Chowk U/G Police Station, Kadapa District, Andhra Pradesh for the offences punishable under Sections 323, 354, 506 and 509 of Indian Penal Code, 1860 (IPC).

2. The offences alleged against the petitioners, who are mother and son, respectively, are punishable under Sections 323 and 506 of IPC and also under Sections 354 and 509 of IPC, which were subsequently appears to have been added by making a request to the concerned Judicial Magistrate of First Class being II Additional Judicial Magistrate of First Class, Kadapa.

3. Heard Sri B. Krishna Kumar, learned counsel for the petitioners, and the learned Additional Public Prosecutor for the State of Andhra Pradesh - respondent No.1.

4. Learned counsel for the petitioners would confine his submission to the delay in registering the First Information Report (FIR) alone. It is according to the learned counsel that there was 26 days delay in lodging the FIR and no explanation is forthcoming to

justify the said delay and in support of his contention, he relies on the decision of the Hon'ble Supreme Court in **State of Madhya Pradesh v. Kriparam**¹.

5. It is no doubt true, the law laid down by the Hon'ble Supreme Court in the aforesaid decision is to the effect that the delay of 26 days in lodging the FIR without any explanation justifying the delay would be fatal to the prosecution case. But, in the present case, the facts stand on a different footing. The FIR was registered on the basis of a statement made by the *de facto* complainant, who is shown as respondent No.2 herein. Her statement was reduced into writing on 23.08.2016 at 00-45 hours at RIMS Hospital by the concerned Station House Officer on 'Medico Legal Intimation' sent by the said Hospital. Thus, it is clear that the said statement reduced into writing has come into vogue on 23.08.2016 itself. Basing on the said statement only, the FIR was registered on 14.09.2016.

6. In the above circumstances, it cannot be said that the complaint was lodged with delay. It is only on the part of the Investigating Officer, the delay has occasioned in registering the FIR, but not in lodging the complaint or reducing the report into writing.

7. So far as whether there were any due deliberations and consultations before the FIR was registered is concerned, it is a matter to be dealt with during trial. The material placed by the petitioners is

¹ (2003) 12 SCC 675

only the complaint and no other material is placed, though, it appears that statements of LWs.1 to 7 were recorded during the course of investigation. Hence, at this stage, it cannot be said that it is a fit case to quash the proceedings as sought for by the petitioners.

8. Since, only delay is the ground urged for quashing, the factual aspect and merits have not been gone into.

9. Suffice to say that the request of the petitioners cannot be acceded to.

10. Therefore, the Criminal Petition is dismissed at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition are disposed of.

January 17, 2017.
PV

A. SHANKAR NARAYANA, J