

**THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**Crl.P.No.11186 of 2017**

**ORDER**

This petition is filed under Section 482 of Cr.P.C., to quash the proceedings in C.C.No.487 of 2015 pending on the file of I Additional Chief Metropolitan Magistrate, Hyderabad, registered for the offence punishable under Section 354 IPC, against the petitioner/accused.

2. The second respondent, by name, M. Priyanka Gandhi, lodged a report with the police complaining that the petitioner assaulted her with an intention to outrage her modesty on 15.12.2014 at about 13.30 hours, abused her in filthy language and misbehaved with her.

3. In the present petition, it is contended by the counsel for petitioner that the dispute is of civil in nature since it pertains to Section 138 of Negotiable Instruments Act, 1881 and it is an abuse of process of the Court and consequently, the proceedings cannot be continued in C.C.No.487 of 2015 against the petitioner. It is a strange argument advanced by the counsel for petitioner that assaulting a woman with intent to outrage her modesty is civil in nature and such contention cannot be accepted since the overt acts attributed against the petitioner would squarely fall under Section 354 IPC i.e., assault or criminal force to woman with intent to

outrage her modesty. Assault is defined under Section 351 IPC, which reads as under:

“whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.”

The word ‘criminal force’ is defined under Section 350 IPC, whereas the word ‘force’ is defined under Section 349 IPC. Section 350 IPC reads as under:

“Whoever intentionally uses force to any person, without the person’s consent, in order to the committing of any offence or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other”.

4. Coming to the present facts of the case, the petitioner caught hold of the hand of the second respondent tightly, pulled her, abused her in filthy language and misbehaved with her. Such acts would fall within Sections 350 and 351 IPC to attract the offence punishable under Section 354 of IPC *prima facie*.

5. One of the contentions raised by the learned counsel for petitioner is that no eyewitness was present to support the case of the prosecution, but this Court cannot evaluate the material on record while exercising power under Section 482 of Cr.P.C., as held by the Apex Court in **State of Orissa v. Saroj Kumar Sahoo**<sup>1</sup>. Therefore, at this stage, this Court cannot look into corroborative

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<sup>1</sup> (2005) 13 SCC 540

piece of evidence of any eyewitness. At the same time, in the statement of second respondent recorded under Section 161 of Cr.P.C., she disclosed the actual incident of using criminal force or assault against her with intent to outrage her modesty by petitioner. Therefore, suffice it to hold that the complaint discloses the commission of offence punishable under Section 354 IPC *prima facie*. Hence, this Court cannot exercise its inherent power under Section 482 of Cr.P.C. to quash the proceedings at this stage.

6. In the result, the Criminal Petition is dismissed, at the stage of admission.

7. Miscellaneous petitions, if any, pending in this criminal petition shall stand dismissed.



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**M. SATYANARAYANA MURTHY, J**

28<sup>th</sup> November, 2017

sj