

HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE No.183 of 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the 1st respondent State.

The present revision case is filed questioning the orders passed in CrI.M.P.No.9679 of 2017 in C.C.No.327 of 2010 dated 19.12.2017 on the file of the Judicial Magistrate of First Class, Badvel, dismissing the petition filed under Section 311 Cr.P.C., to issue summons to Sri V. Penchalaiah, the then Radiologist, RIMS Hospital, Kadapa to produce the X-ray report No.MLC 1132 dated 03.05.2010.

The facts of the case are that the petitioner herein is the complainant and respondent Nos.2 to 8 are the accused for the offence under Sections 324, 427 and 325 read with 34 IPC in C.C.No.327 of 2010 on the file of the Judicial Magistrate of First Class, Badvel. Pending the said case, after examination of PW.4, the petitioner filed CrI.M.P.No.9679 of 2017 under Section 311 Cr.P.C., to issue summons as stated above. The learned Magistrate dismissed the said petition on 19.12.2017. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner would submit that the Court below erred in not summoning the Radiologist and mark the X-ray, since PW.4 deposed that the injury sustained by PW.1 is a grievous injury. The learned counsel also submitted that the observation made by the Court below that the present petition is filed only to fill up the lacuna without any sufficient reason is not correct. The Court below ought not to have discussed the

matter on merits of the main case when dealing with an interlocutory application.

Per contra, the learned Public Prosecutor appearing for the 1st respondent State submitted that though PW.4 was examined, the copy of the said X-ray is not produced by the petitioner before the Court. Merely, because PW.4 has stated that PW.1 has received grievous injury that itself will not become a ground for the petitioner to file the present application. On that count, he sought dismissal of the revision case.

Having heard both the counsel and a perusal of the material on record, it is revealed that what all PW.4 has stated is basing on the X-ray issued by RIMS Hospital, Kadapa and the X-ray report No.MLC 1132 dated 03.05.2010. In fact, the petitioner did not produce either the X-ray receipt or the report before the Court, but only from the evidence of PW.4 he is trying to make out a case for the purpose of summoning the X-ray. It is also not known as to whether the witness sought to be summoned is Dr. Penchalaiah or any other doctor at the relevant point of time in the hospital. In these circumstances, this Court is not inclined to interfere with the orders passed by the Court below. There are no merits in the revision case and the same is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAHA RAO, J

Date: 27.07.2018.
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