

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.1681 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C. for quashing the proceedings against the petitioners/accused Nos.1 and 2, in C.C.No.102 of 2017 on the file of the learned Chief Metropolitan Magistrate, Visakhapatnam for the offences punishable under Sections 448, 323, 427, 506 r/w 34 I.P.C.

2. Heard the learned counsel for the petitioners/accused Nos.1 and 2, the learned Assistant Public Prosecutor representing the respondent No.1-State and perused the record.

3. The learned counsel for the petitioners/accused Nos.1 and 2 would submit that the petitioners are innocent persons and they are falsely implicated in this case. There is inconsistency in the statement of the *de facto* complainant and her husband. The First Information Report was lodged with a delay of three days. The petitioners are respectable persons and ultimately prayed to quash the proceedings in C.C.No.102 of 2017 on the file of the learned Chief Metropolitan Magistrate, Visakhapatnam.

4. The learned Assistant Public Prosecutor opposed the application.

5. As per the records placed before this Court, on 19.08.2016 around 5.30 p.m., the petitioners/accused Nos.1 and 2 alleged to have trespassed into the house of the *de facto* complainant, picked up a quarrel with regard to a rope said to have tied in the common area to dry the clothes, beat the *de facto* complainant and her husband with hands and abused them in a filthy language. There is record to show that the report was lodged with a delay of three days i.e. on 22.08.2016 and after examining the witnesses,

a charge sheet is filed substantiating the allegations made in the report dated 22.08.2016, lodged against the petitioners/accused Nos.1 and 2.

6. Admittedly, there are allegations of trespass and assault. The delay of three days in lodging the report is not fatal to the case though the police station is half a kilometer away from the scene of offence. It cannot be held that the petitioners are innocents. The continuation of the proceedings against them is not an abuse of process of law. The Criminal Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, this Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall also stand dismissed.

Date: 15-02-2018

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Dr. SHAMEEM AKTHER, J

