

THE HON'BLE SRI JUSTICE N.BALAYOGI

CRIMINAL PETITION No.8374 of 2011

ORDER:

This petition under Section 482 of Cr.P.C. is filed by accused seeking to quash the proceedings in Crime No.262 of 2011 on the file of Kothapeta Police Station, Guntur Urban.

2. The contention of the petitioner-accused is that there is a dispute regarding parking place among the flat owners of the apartment. The delay in lodging the F.I.R. is not properly explained by the complainant-second respondent herein, which itself shows that the petitioner is implicated in the crime. Nowhere in the complaint, the second respondent has stated to which leg she suffered injury. Though the medical certificate issued by Yashaswi Hospital shows that the second respondent-complainant received a grievous injury, it does not contain the particulars as to when the second respondent was discharged from the hospital. The statement of the complainant-second respondent recorded under Section 161 Cr.P.C. does not attract an offence under Section 325 IPC. There is no intention or knowledge or any sudden provocation as alleged by the prosecution.

3. On the other hand, the learned Assistant Public Prosecutor contended that specific overt acts are attributed to the petitioner in the complaint that the petitioner pushed the complainant as a result, she fell on the ground and sustained fracture to the right leg and at this stage, there is no ground to interfere with the impugned proceedings.

4. Now the point that arises for consideration in this petition is whether there is any *prima facie* material to prosecute the petitioner for the alleged offence?

5. A perusal of the record goes to show that in the petition itself, the petitioner specifically extracted the statement of second respondent-complainant recorded at Yashaswi Hospital on 16.08.201 at 01.15 p.m., which reads thus:

“.....I am resident of Gorantla Village, Guntur Rural Mandal, Guntur District. I am doing Coolie work. My third daughter by name Smt. Tirumala Setty Lakshmi and her husband by name Sanker were residing in Seelamvari Street, Sai Ganesh Apartment as a watchman since 6 years. AS my daughter fell sick, I went to Hospital along with my daughter on 12.08.2011 for the above said reason. I left Guntur from Gorantla and joined in my daughter's house at about 11.30 p.m. On 12.08.2011, one K.S.Rama Rao, who came in his relatives car and tried to park in the Ground Floor. At that time, some wooden piece work there in the parking place and the said K.S.Rama Rao directed my daughter and my son-in-law and also to shift the wooden cots. Sudden provocation was raised and K.S.Rama Rao threatened in a filthy language and tried to beat my daughter and son-in-law. When I went to pacify the matter, the said K.S.Rama Rao thrown me and immediately I fell down and received injury on my leg (Thunti-Emuka). At that time, surrounding people came to the scene of offence and pacified the matter. Immediately, my daughter shifted to Yashaswi Hospital at Mangalagiri Road and Doctor admitted me in a Casual Ward.”

6. In view of the specific assertions in the complaint and the statement, there is no merit in the contention of the petitioner that the complainant did not state as to which leg she sustained injury. Further with regard to the delay in lodging the F.I.R., it is a matter of fact that is to be explained by the prosecution during the course of trial.

7. In view of the facts and circumstances discussed above, I am of the considered view that specific overt acts are attributed to the

petitioner that he pushed the complainant and as a result, she fell on the ground and sustained fracture and grievous injury to the right leg (tunti) and she was treated at Yashaswi Hospital at Mangalagiri Road and that the doctor certified that the injury is grievous in nature, which prima facie attract an offence punishable under Section 325 IPC. Hence, I am of the considered view that there is prima facie material against the petitioner to prosecute for the alleged offence. There is nothing to suggest any abuse of process of Court or any prejudice that is caused to the petitioner in continuing the impugned proceedings against him.

8. In the result, the Criminal Petition is dismissed. The interim stay granted by this Court on 14.09.2011 in CrI.M.P.No.8981 of 2011 shall stand vacated.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

20th February 2018
Tsr

JUSTICE N.BALAYOGI

