

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.2074 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, seeking to quash the proceedings in C.C.No.317 of 2017 on the file of the Additional Junior Civil Judge, Chirala, Prakasam District (arising out of Crime No.171 of 2017 on the file of Chirala I Town Police Station, Prakasam District, registered for the offences under Sections 324 & 509 of I.P.C.).

2. Heard the learned counsel for the petitioner/accused, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner/accused would submit that on 01.08.2017, the petitioner/accused was executing a Warrant issued by a civil Court. He was not present at the scene of offence, as alleged in the report lodged with the police and in the charge-sheet filed before the Court. No alleged incident took place. Further, the petitioner/accused is an innocent person. He has nothing to do with the alleged incident and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the application.

5. As per the record placed before this Court, the de-facto complainant was living separately from her husband for the last

seven years from the date of alleged incident, along with her mother, behind Poleramma temple, Paparajuthota, Chirala. She used to visit Saibaba temple situated at Paparajuthota, Chirala, regularly. On 27.07.2017 morning, when she was going to the temple along with others for Darshan, the priest of the temple obstructed her to have Darshan, by placing a notebook across her. On the same day, the de-facto complainant complained to L.W.7 about the behaviour of the priest of the temple. Later, the de-facto complainant came to know that the priest of the temple along with the petitioner/accused was going to lodge a report with the police against her. On 01.08.2017, at about 11:00 hours, while the de-facto complainant was proceeding towards the temple, through the house of the petitioner/accused, she noticed L.W.7 and while she was chatting with L.W.7, the petitioner/accused came there on his motorcycle, parked his motorcycle on the road, picked the keys of the motorcycle, held into his right hand fingers, came to the de-facto complainant, grew wild, abused her in filthy language as “Eme Lanja Gudi lo rubabu chestunnavanta gudda balisinda” and all of a sudden, slapped the de-facto complainant with his right hand, holding the keys. The de-facto complainant suffered bleeding injuries on her left eye region and fallen on the motorcycle of the petitioner/accused. Public, who came there, witnessed the incident. Thereafter, a report was lodged with the police and this case is registered and the police, after completion of investigation, filed charge-sheet before the Court concerned against the petitioner/accused for the offence under Sections 324 & 509 of I.P.C.

6. There are specific allegations of abuse and assault alleged to have been made by the petitioner/accused. There are witnesses supporting the case of the prosecution. The truth or otherwise of the allegations levelled against the petitioner/accused is required to be determined by the trial Court in the course of regular trial. The petitioner is pleading *alibi* before this Court. It is not a stage to plead that. He can take all the defences available to him at the trial of the case. The Criminal Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed.

Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

21st February, 2018
Bvv

