

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.9041 of 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner to quash the proceedings in C.C.No.308 of 2017 on the file of VI Additional Judicial Magistrate of First Class, Guntur.

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

3. Learned counsel for the petitioner would submit that the 1st respondent is working as Assistant Divisional Engineer (Civil) in APSPDCL, Ponnuru Road, Guntur and a false report was filed against this petitioner by the 1st respondent/de facto complainant alleging that petitioner along with another accused assaulted him on 07.01.2016. The police concerned after due investigation filed final report stating that no accusation is made out against the petitioner/accused. However, learned Magistrate has taken cognizance against the petitioner for the offence punishable under Section 354 IPC, which is unsustainable. There is no material to take cognizance for the offence punishable under Section 354 IPC and a false report was made against the petitioner in order to take vengeance. There are number of witnesses supporting the case of the petitioner to disprove the alleged incident and ultimately prayed to quash the proceedings.

Learned Assistant Public Prosecutor opposed the same.

Learned counsel appearing for the 1st respondent/de facto complainant would submit that on 07.01.2016 when the de facto complainant went to the chambers of the petitioner/accused around 04.30

p.m. along with her colleague C.Govindamma, the said C.Govindamma sat outside the chambers of the petitioner and the *de facto* complainant went inside the chamber and was discussing regarding loading of electrical poles with the petitioner/accused and that the petitioner/accused caught hold of her hand. When she made cries, the said C.Govindamma came into the chambers and thereafter, both of them went outside and made complaint to the superior of the petitioner by name Jaya Bharath Rao (SE) about the incident and thereafter, she lodged a report with the police.

When the police referred the case as false, learned Magistrate recorded the sworn statements of PWs.1 to 3. PWs.1 to 3 categorically stated about the alleged commission of offence by the petitioner/accused. The averments of the statements recorded by the learned Magistrate would reveal the commission of offence punishable under Section 354 IPC. Therefore, learned Magistrate has taken the cognizance against the petitioner following the procedure contemplated under law. There is not infirmity in taking cognizance against the petitioner. The truth or otherwise is to be determined in the course of trial only and at this stage, it cannot be held that the petitioner is innocent and falsely implicated in this case. The continuation of proceedings against the petitioner is not abuse of process of law, the criminal petition is devoid of merits and liable to be dismissed.

Accordingly, the criminal petition is dismissed.

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

Dr. SHAMEEM AKTHER, J

12.03.2018
kvrn