

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.9394 OF 2018

ORDER:

This Criminal Petition, under Section 439(2) read with 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/*de facto* complainant, to cancel the anticipatory bail granted to respondent No.2/accused by an order, dated 18.07.2018, passed by the learned III Additional Sessions Judge, Bhimavaram in CrI.M.P.No.730 of 2018 in Crime No.121 of 2018 of Akividu Police Station.

2. Heard the learned counsel for the petitioner/*de facto* complainant, the learned Additional Public Prosecutor representing respondent No.1/State and perused the record.

3. Learned counsel for the petitioner/*de facto* complainant would contend that the learned Sessions Judge erroneously observed that the allegations in the F.I.R. would attract the offence punishable under Section 324 I.P.C. and not Section 326 I.P.C., that the allegations constitute an offence punishable under Section 307 I.P.C.; that there are no justifiable grounds to allow the anticipatory bail and ultimately, prayed to cancel the bail granted to respondent No.2/accused and allow the petition as prayed for.

4. As per the F.I.R., respondent No.2/accused is alleged to have committed the offence punishable under Section 326 I.P.C. Having gone through the allegations in the F.I.R., the learned Sessions Judge observed that the allegations in the F.I.R. would attract the offence punishable under Section 324 I.P.C., but the F.I.R. was

registered for the offence under Section 326 I.P.C.; that the Case Diary does not contain wound certificate of the injured; that the F.I.R. has to be registered for the offence under Section 324 I.P.C., and on receipt of wound certificate, if there is any fracture, the F.I.R. can be altered from Section 324 I.P.C. to 326 I.P.C.

5. In the course of submissions, learned Additional Public Prosecutor brought to the notice of this Court that investigation was completed and the charge sheet was filed for the offence under Section 326 I.P.C. The observations and findings recorded by the learned Sessions Judge cannot be faulted. The allegations are not that grave to deny anticipatory bail to respondent No.2/accused. There is no infirmity in the impugned order and there are no merits in this application and as such, this application is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed.

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

DR.JUSTICE SHAMEEM AKTHER

Date : 23.10.2018
AMD

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER



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