

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**THURSDAY ,THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 1383 OF 2023

Between:

Jagdish Cherkuri, S/o. Chekuri Vijaya Gajapathi Raju, Aged 30 years,
Occ: IT Engineer/Analyst, R/o. 3-11-449, Dr. Raj Colony, L.B. Nagar, Hyderabad
- 500 074,

...PETITIONER/ACCUSED

AND

1. The State of Telangana and another, Rep. by P.S. Raidurgam, Through the Public Prosecutor, High Court of Telangana at Hyderabad.

...RESPONDENT No.1/COMPLAINANT

2. Sri. Venkat Reddy, S.I. of Police, Gachibowli P.S. Cyberabad, Hyderabad

...RESPONDENT No.2 /DEFACTO-COMPLAINANT

Petition under Section /482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings in C.C. No. 1968 of 2020 on the file of Hon'ble XVI Additional Metropolitan Magistrate at Rajendra Nagar as against the Petitioner/Accused

I.A. NO: 2 OF 2023

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including dispensing with the presence of the Petitioner in C.C. No. 1968 of 2020 on the file of XVI Additional Metropolitan Magistrate at Rajendra Nagar,during the pendency of the present petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri ENUGANTI SUDHANSHU RAO ,Advocate for the Petitioner and of the Additional Public Prosecutor on behalf of the Respondent No.1 and None Appeared for the Respondent No.2

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.1383 OF 2023****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner-Accused to quash the proceedings against him in C.C.No.1968 of 2020 pending on the file of XVI Additional Metropolitan Magistrate at Rajendranagar, Ranga Reddy District, filed for the offence punishable under Section 353 of Indian Penal Code (for short "IPC").

2. Heard learned counsel for the petitioner – Accused and learned Additional Public Prosecutor for the respondent – State. Perused the material on record.

3. The petitioner – accused is aggrieved by the order of II Additional Junior Civil Judge cum XIII Additional Metropolitan Magistrate, Cyberabad at Rajendranagar, in dismissing an application vide CrI.M.P.No.535 of 2022 filed under Section 216 of Cr.P.C. by the prosecution.

4. The case of the prosecution is that this petitioner has assaulted a police man on duty, for which reason, charge sheet was filed against him by the police for the offence under Section 353 of IPC. The same was taken cognizance of by the learned Magistrate and numbered as C.C.No.1968 of 2020. However, police filed a requisition before the II Additional Junior Civil Judge cum XIII Additional Metropolitan Magistrate, Cyberabad at Rajendranagar, contrary to the charge sheet stating that no offence is made out against the petitioner under Section 353 of IPC and offence under Section 186 of IPC is made out. The learned Magistrate found that to frame a charge under Section 186 of IPC, prohibition is prescribed under Section 195(i)(a) of Cr.P.C. and accordingly, dismissed the said application.

5. The police having filed charge sheet for the offence under Section 353 of IPC conducted their own investigation and filed a memo stating that no offence under Section 353 of IPC is made out, but Section 186 of IPC is attracted.

6. In the said circumstances, the police should have taken steps to file a complaint for the offence under Section 186 of IPC. Without resorting to the said course of action, a memo was filed.

7. Keeping in view that the charge sheet was already filed by the police, the Magistrate is at liberty to go through the contents of the charge sheet and come to a conclusion whether offence under Section 353 of IPC is made out or not, irrespective of the memo filed by the prosecution. In the event of the Magistrate not finding *prima facie* case to frame a charge under Section 353 of IPC, the charge sheet shall be returned to the Police for filing appropriate complaint under Section 186 of IPC.

8. Accordingly, the Criminal Petition is disposed of.

Miscellaneous applications pending, if any, shall stand closed.

//TRUE COPY//

SD/-MOHD.ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. XVI Additional Metropolitan Magistrate at Rajendra Nagar
2. One CC to SRI. ENUGANTI SUDHANSHU RAO, Advocate.[OPUC]
3. Two CCs to the PUBLIC PROSECUTOR, High Court for the State of Telangana at Hyderabad.[OUT]
4. Two CD Copies

SB

BSK

HIGH COURT

DATED:09/02/2023

ORDER

CRLP.No.1383 of 2023



DISPOSING OF THE CRLP WITHOUT COSTS

7
18/3/23