

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1937 of 2019

ORDER:

1. Heard Smt.T.Geetha, learned counsel for the petitioners as well as the learned Additional Public Prosecutor who is representing Respondent No.1. Though Sri G.Srinivas, Advocate, is on record representing Respondent No.2, learned counsel failed to make his submissions.

2. This Criminal Petition is filed under Section 482 Cr.P.C. seeking the Court to quash the proceedings that are pending against the petitioners in C.C.No.2610 of 2018, on the file of the Court of XI Additional Chief Metropolitan Magistrate, Hyderabad.

3. Stating that the petitioners have not committed any offences whatsoever, learned counsel for the petitioners states that Petitioner Nos.1 to 4 are arrayed as Accused Nos.1 to 4 in the Calendar Case in question and a false case is foisted against them by the *de facto* complainant in the light of rivalry that is prevailing between the petitioners on one hand and the 2nd respondent/*de facto* complainant

on the other hand. Learned counsel also states that the son of the *de facto* complainant harassed the 4th petitioner and in that regard, the 4th petitioner gave complaint to police and a case was registered against the son of the *de facto* complainant in Crime No.51 of 2018 of Bowenpalli Police Station and after investigation, charge sheet is laid. Learned counsel also states that by creating a false story, criminal proceedings are initiated against the petitioners and therefore, the proceedings are liable to be quashed.

4. The submission of the learned Additional Public Prosecutor in this regard is that basing on the complaint given and on recording the statements of witnesses, charge sheet is laid.

5. The matrix of the case as could be perceived through the contents of the charge sheet is that on 05.02.2018 at about 6.30 PM, while the 2nd respondent was present alone at her house, the petitioners went to her house, picked up quarrel with her and beat her. The petitioner Nos.2 & 3 touched the private parts of the 2nd respondent/*de facto* complainant. Further, the petitioners threatened the *de facto* complainant with dire consequences.

Section 354 IPC reads as under:-

“354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

6. By the above provision, it is clear that when a person or group of persons assaults or uses criminal force against any woman with an intention to outrage her modesty or with a knowledge that he/they would thereby outrage her modesty, shall be liable for punishment under the said provision. However, in the case on hand, such an intention on part of the petitioners or knowledge is not shown to be present. That apart, by the narration of the event itself by the *de facto* complainant, it is clear that during a quarrel, she was beaten by the petitioners and was threatened. Therefore, this Court is of the view that the proceedings, so far as the offence punishable under Section 354 IPC, are liable to be quashed as the said provision does not at all

attract. As far as the rest of the offences are concerned, i.e. the offence punishable under Section 323 IPC and the offence punishable under Section 506 IPC, as *prima facie* material is found, this Court is of the view that the power granted under Section 482 Cr.P.C. cannot be exercised to quash the proceedings.

7. Resultantly, the Criminal Petition is allowed- in- part. The proceedings that are pending against the petitioners for the offence punishable under Section 354 IPC are hereby quashed. So far as the charges, if any, framed for the other offences is concerned, the trial should go on.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:20.02.2023
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