

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.10577 OF 2022

O R D E R:

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner-Accused No.3 to quash the proceedings against her in C.C.No.249 of 2022 pending on the file of the Judicial First Class Magistrate at Thungathurthy, Suryapet District. The offences alleged against her are under Sections 323, 504, 506 r/w.34 of the Indian Penal Code.

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

3. The 2nd respondent filed a complaint against her brother-in-law, sisters, and also her father-in-law stating that there were disputes with regard to family property; and that specifically on 06.02.2021, this petitioner/A3, A1, A2 and A4 had assaulted her by catching hold of her hair and also beat with sticks. A complaint was registered for the offences under Section 324, 506 and 504 r/w.34 of the Indian Penal Code, however, the Police after investigation having found that the 2nd respondent did not take

any treatment in any hospital and did not sustain any visible injuries, filed an alteration Memo altering the provision of law from 324 of IPC to 323 of IPC and 504, 506 r/w.34 of the Indian Penal Code.

4. As seen from the charge sheet, no permission was taken by the Investigating officer to file report for the offences under Section 324, 504 and 506 of the Indian Penal Code which are non-cognizable offences.

5. In case of non-cognizable offences, the Police have to obtain permission either for investigating a non-cognizable offence or for filing a report for non-cognizable offences as mandated under Section 155(2) of the Cr.P.C.

Section 155(2) of Cr.P.C. reads as follows;

155. Information as to non-cognizable cases and investigation of such cases.—

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

6. In the present case, though the crime was registered under Section 324 which is a cognizable offence, charge sheet was filed under Section 323, 504 and 506 r/w.34 of the Indian Penal Code.

7. Under Section 155(2) of the Cr.P.C., the Police Officer investigating a non-cognizable offences shall obtain an order of the Magistrate. Secondly to commit the case for trial of a non-cognizable offence, order has to be taken from the concerned Magistrate. For the reason of the final report being filed under Section 323, 504 and 506 of the IPC which are of non-cognizable offences, according to schedule-I of Cr.P.C., the charge sheet which has been filed without the order of the concerned Magistrate, is liable to be quashed.

8. Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner/A3 in C.C.No.249 of 2022 pending on the file of the Judicial First Class Magistrate at Thungathurthy, Suryapet District, are hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

Date: 21.02.2023
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K.SURENDER, J

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Dt. 21.02.2023

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