

[3384]

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY THIRD DAY OF APRIL

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

CRIMINAL PETITION NO: 881 OF 2025

Between:

Ashok Posham, S/o Ramulu.

Petitioner/Accused

AND

1. The State of Telangana, Rep. by its Public Prosecutor, High Court at Hyderabad.
2. Shiva Kumar, S/o Late Govind Rao, Occ. Business, R/o H.No.3-6-143/ 1, Himayathnagar, Narayanaguda, Hyderabad - T.S.

Respondent No.2/Defacto Complainant

Petition under Section 528 of BNSS, praying that in the circumstances stated in the grounds filed in support of the Criminal Petition, the High Court may be pleased to quash the Proceedings in C.C.No.8046 of 2022 on the file of IX Additional Chief Metropolitan Magistrate, Hyderabad against the Petitioner/A1.

IA NO: 1 OF 2025

Petition under Section 528 of BNSS praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all the proceedings in C.C.No.8046 of 2022 on the file of IX Additional Chief Metropolitan Magistrate, Hyderabad against the Petitioner/A1, pending disposal of CRLP 881 of 2025, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri N SREENIVASA YADAV, Advocate for the Petitioner and Sri Surepalli Prashanth, Asst. PUBLIC PROSECUTOR for the Respondent No.1 and Sri G.Sathish Babu, learned counsel representing Sri G. Rajesham, Advocate for the Respondent No.2, the Court made the following.

ORDER:

This Criminal Petition is filed by petitioner/accused to quash the proceedings against him in C.C.No.8046 of 2022 on the file of IX Additional Chief Metropolitan Magistrate, Hyderabad. Offences alleged against petitioner are under Sections 324 and 506 of Indian Penal Code, 1860 (for short 'IPC').

Heard Mr. Nagula Srinivas Yadav, learned counsel for petitioner, Mr. G.Sathish Babu, learned counsel representing Mr. G.Rajesham, learned counsel for respondent No.2 and Mr. Surepalli Prashanth, learned Assistant Public Prosecutor for the respondent – State. Perused the material on record.

Respondent No.2/de-facto complainant lodged a complaint on 06.06.2022 at 14:20 hours. FIR bearing No.215 of 2022 came to be registered at Narayanaguda Police Station under Sections 324, 506 of IPC.

Gist of the complaint is that accused and respondent No.2 are carrying business as neighbours. Respondent No.2 has business under the name of Govind Digital Studio at Himyathnagar. Accused runs Ayurvedic Medical Shop. On 06.06.2022, there was a quarrel over the construction of foot path in front of the business premises. Respondent No.2 alleges that he was beaten with an iron rod on the head.

A complaint was addressed to the Inspector of Police, Narayanaguda by Indraj Posham. In the complaint, it is averred that they constructed foot path before the shop and that it was removed by respondent No.2, he attacked her son and husband with a velcro and they received injuries. That even his son attacked her husband with wooden stick. An acknowledgment receipt is filed as annexure. The acknowledgment is issued by Narayanguda Police Station dated 06.06.2022, 12:34 P.M. In the acknowledgment under the column subservice, it is reflected as "crime related petitions" (document annexed at Page No.24). No FIR came to be registered by the Police inspite of the complaint by Indraj Posham.

On the complaint, a petition enquiry report was submitted to the Court. In the petition enquiry report dated 20.06.2022, it is recorded that petition is closed as false.

It is submitted by learned counsel for petitioner/accused that allegations in the complaint are false and baseless. That respondent No.2 tried to interfere with the foot path constructed by petitioner/accused and that on the date of incident, he found the foot path completely collapsed and when queried, respondent No.2 owner of the digital studio attacked with a stick on the accused and his son and they received injuries.

Learned counsel invited the attention to Page No.53, a medico legal record issued by Osmania General Hospital, bearing Casualty OP No.22177232, MLC No.20851, date of examination is 06.06.2022 at 20:03 hours. Patient is J.Shiva Kumar. At column No.6, it is written as simple injury (i.e., laceration over scalp and laceration over thumb).

It is submitted that the Station House Officer did not register an FIR, on the complaint of Indraj Posham, even though the complaint was lodged at 12:34 hours, a requirement under law. It is further submitted that acknowledgment issued by the Police is indicative that wife of petitioner/accused lodged the complaint in time. It is also submitted that non registration of FIR establishes the fact that Police are biased.

Learned counsel invited the attention of this Court to column No.11 of the charge sheet, C.C.No.8046/2022, undated. Under the caption, particulars of accused charge sheeted, it is reflected as follows:

“Posham Akhil S/o Ashok Posham age 17 years Occ. Student R/o.H.No.3-5-926/16 Narayanguda, Hyderabad.

(Boy Juvenile Custody handed over to Parent on Undertaking and Final Appraisal report filed against him before Hon’ble Vth ACMM, Hyderabad.)”

On the basis of the entry in column No.11, it is submitted that against son of accused, a separate final report is filed indicating the biased conduct of SHO.

Attention of this Court is invited to Page No.53 and contended that injuries are simple in nature. That there is no truth in the allegations in the complaint.

On the other hand, learned counsel for respondent No.2 submitted that during the quarrel, accused and his son attacked respondent No.2. Counsel for respondent No.2 submitted that medico legal record at Page No.53 is not correct and does not reflect the injuries caused. Learned counsel produced photographs showing injuries to the head of respondent No.2. It is submitted that injuries were caused by an iron rod and that the respondent No.2 was given 21 stitches on his scalp. (Except photographs, no medical record/certificate is presented). It is submitted that wife of accused rushed to the Police Station and lodged a false complaint. It is also submitted that after an enquiry into the complaint lodged by Indraj Posham, the complaint was closed as false.

It is submitted that immediately on receiving injuries respondent No.2 was taken to hospital for first aid. That respondent No.2 lodged the complaint at 02:20 P.M. It is contended that complainant (Mrs. Indraj Posham) was not present at the scene when the incident occurred.

Learned Assistant Public Prosecutor submitted that on the basis of the complaint of wife of petitioner/accused, an enquiry was conducted and after enquiry, complaint was closed as false. It is further submitted that Station House Officer registered an FIR on the complaint of respondent No.2 and filed a charge sheet after investigation. That offences are made out and no interference is necessitated.

Heard learned counsels, perused the record and considered the rival submissions.

Two complaints are lodged, one by wife of accused/petitioner on 06.06.2022, the other by respondent No.2. Both complaints are lodged on the same day, but at different time(s). Complaints arise out of a quarrel over foot path issue. Complaint lodged by wife of accused/petitioner is at 12:34 hours on 06.06.2022, complaint lodged by respondent No.2 is at 14:20 hours on 06.06.2022. What is common in both the complaints is that there was a quarrel

over foot path construction and it was demolished and both parties lodged complaints, after attacking each other.

As per the counsel, respondent No.2 was taken to hospital immediately after injury and was given 21 stitches, hit by iron rod by son of accused and with a stick by accused. Page No.53 is the medico legal record issued by Chief Medical Officer, Casualty Ward of Osmania General Hospital dated 06.06.2024. Time of examination of respondent No.2 is 20:03 hours. In the injury certificate it is reflected that injuries are simple in nature (a laceration over the scalp and laceration over left thumb and an X-ray), nothing is reflected in the medico legal record about 21 stitches received by respondent No.2 (as contended).

If the submission made across the Bar is to be taken as true that respondent No.2 was immediately shifted to hospital after the injury and was given 21 stitches. It is surprising to notice as to how the Chief Medical Officer could have missed recording in the medico legal record bearing casual OP No.22177232, MLC No.20851 about the 21 stitches received by respondent No.2.

When this Court queried learned counsel for respondent No.2 as to whether any medical certificate was issued by any doctor who attended the injury on the head of respondent No.2, nothing is placed on record except photographs. This Court cannot rely upon photographs. In the absence of a certificate from a doctor (of 21 stitches), the submissions cannot be considered. If the contention of learned counsel for respondent No.2 is to be believed, the medico legal record at page No.53 issued by the Chief Medical Officer of State hospital at 20:03 hours recording that the injuries are simple in nature would be a false certificate.

Now coming to the issue whether on the basis of a complaint received, FIR is to be registered or not, law is well settled that on receipt of a complaint, it is the primary duty of the SHO to register an FIR. No FIR is registered by the SHO of Narayanguda Police Station on the complaint of Indraj Posham. On noticing this, this Court summoned the Officer In-charge and the Deputy Commissioner of Police of the zone and asked as to why the FIR was not registered. The Officer apologized to the Court and submitted a petition enquiry report through the counsel. In the report, it is reflected that complaint is closed as false.

This Court queried the counsel for the State on the facts of case, counsel on instructions stated that in the quarrel, an injury was received by respondent No.2. But, in the charge sheet, the name of hospital, the doctor who attended the respondent No.2 who gave 21 stitches is not reflected. In the absence of these details, the submissions canvassed before this Court cannot be considered. If at all the injuries received by respondent No.2 are true, injury certificate has to be produced. It is observed from the findings in the charge sheet that injuries are simple in nature even as per LW6. The submissions made across the Bar that injuries received on the head led to 21 stitches is far from truth.

On an analysis of the entire record, it can be inferred that the ingredients of Sections 324 and 506 of IPC are not made out, record does not speak so. To attract Sections 324 and 506 of IPC, the allegations in the complaint have to speak of acts of commission of offence.

Learned counsel for respondent No.2 was unable to produce any medical certificate or injury certificate or the discharge certificate of the hospital in which the treatment is said to have been given. It was submitted that respondent No.2 was taken to hospital at King Koti (Government Hospital), but, neither medical certificate is submitted nor the name and designation of doctor is stated. Charge sheet does not reflect the details too.

Medico legal record (Page No.53) is issued by Chief Medical Officer of Osmania General Hospital at 20:03 hours which is 11 hours after the incident. If the submissions of the counsel for respondent No.2 are to be taken as true, then the medico legal record has to be held as false, which this Court is not inclined to do so, in the absence of any other record. Medical Officers of the Osmania General Hospital were also asked to be present in the Court. They were present along with the record. On a perusal of the record, it is observed that what is stated by the counsel for respondent No.2 is not true.

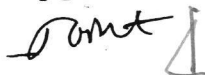
Non adherence to the law laid down by the Apex Court that FIR is to be registered immediately, when a complaint is lodged (at the earliest point of time) has been flouted by the SHO of Narayanguda Police Station, this act cannot be condoned. Non-registration of FIR goes to the root of issue, it creates any amount of doubt. The submission that Police have acted in a biased manner cannot be ruled out. Medical report at Page No.53 speaks injuries are simple in nature, no medical document is placed before this Court about 21 stitches given to respondent No.2. (The Police Officer present in the Court has expressed his unconditional apologies and has stated that he will not repeat such mistakes).

On consideration of entire factual matrix of the case, submissions made by counsels and perusal of the record, this Court is of the opinion that it is a fit case to stay of all further proceedings in C.C.No.8046 of 2022 on the file of IX Additional Chief Metropolitan Magistrate, Hyderabad and the proceedings are accordingly stayed.

Post the matter on 24.06.2025.

//TRUE COPY//

Sd/- M.MANJULA
JOINT REGISTRAR


SECTION OFFICER

To,

1. The IX Additional Chief Metropolitan Magistrate, Hyderabad.
2. The Station House Officer, P.S. Narayanaguda, Hyderabad.
3. Shiva Kumar, S/o Late Govind Rao, Occ. Business, R/o H. No. 3-6-143/ 1, Himayathnagar, Narayanaguda, Hyderabad - T.S. (by RPAD)
4. One CC to SRI N SREENIVASA YADAV Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR, High Court at Hyderabad. (OUT)
6. One spare copy

HIGH COURT

JAK,J

DATED:23/04/2025

Post the matter on 24.06.2025 ✓

ORDER

CRLP.No.881 of 2025 ✓

STAY

