
(2012) 06 AP CK 0066

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 4991 of 2012

Dr. M. Varalakshmi and another

APPELLANT

Vs

Smt. Nagaram Kavitha and The State of A.P.

RESPONDENT

Date of Decision : 19-06-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 323, 354, 385, 497, 498A

Citation : (2012) 2 ALD(Cri) 308 : (2012) 3 ALT(Cri) 140

Hon'ble Judges : Samudrala Govindarajulu, J

Bench : Single Bench

Advocate : L. Harish, for the Appellant;

Final Decision : Dismissed

Judgement

Hon"ble Sri Justice, Samudrala Govindarajulu

1. The petitioners 1 and 2/A.1 and A.2 are accused of offences punishable under Sections 385, 354 and 506 Part II IPC. It is alleged that on 16.05.2012 at 11:30 A.M., when the 1st respondent/ de facto complainant was at Primary Health Centre, Yalal, A.1 and A.2 approached her and requested her to go for Panchayat along with them to Sub-Divisional Police Officer, Vikarabad where they have arranged the compromise in the previous criminal case. Previous criminal case in Cr.No.31 of 2012 relates to offences punishable under Sections 498-A, 497, 509, 323 and 506 Part II IPC. It is further alleged that when the 1st respondent refused to accompany them, A.1 and A.2 picked up quarrel with her, threatened her with dire consequences, pulled her tuft of hair, beat her indiscriminately and torn her blouse while patients and staff of Primary Health Centre were present and thereby insulted her modesty. Truth or otherwise of the said allegations is a question of fact, which this Court may not be in a position to go into and decide the same in this petition u/s 482 Cr.P.C.

It is contended by the petitioners" counsel that at any rate, Section 354 IPC

cannot be applied to the facts of this case, particularly when A.1 and A.2 are also women. It is pointed out that in order to attract offence punishable u/s 354 IPC, the offender should necessarily be a male person as the offence should have been committed "intending to outrage or knowing it to be likely that he will thereby outrage her modesty". It is contended that the word "he" used therein should necessarily lead to the conclusion that the offender should be a male person and cannot be a female person. The Additional Public Prosecutor pointed out Section 8 IPC which reads as follows:

Gender:- The pronoun "he" and its derivatives are used of any person, whether male or female.

As per the above definition, pronoun "he" is used of any person, whether male or female. Therefore, it is pointed out by the Additional Public Prosecutor that even a female person is capable of committing an offence u/s 354 IPC. In my opinion, irrespective of a male person or female person committing the said offence, intention of the person committing the same is important. Even devil knows not mind of a person. Intention has to be gathered from the attending facts. As per allegations in F.I.R., the accused are stated to have pulled the 1st respondent's tuft of hair and also had torn her blouse when patients and staff were looking at the quarrel in Primary Health Centre, Yalal. If it is mere catching of tuft of hair by a woman of another woman, it may or may not amount to an offence u/s 354 IPC. But, when the allegation goes to the extent of two women catching hold of the complainant/1st respondent and tearing her blouse in a public place when patients and staff who include her own colleagues were seeing at the quarrel, would certainly attract the liability u/s 354 IPC, in case the incident is true. It is a matter for investigation and this Court does not find any reason to interfere with the investigation at its threshold in exercise of power u/s 482 Cr.P.C.

2. Accordingly, the Criminal Petition is dismissed.