

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.472 of 2015

Between:

Bolla Kanaka Durga and another

..... PETITIONERS

AND

The State of Andhra Pradesh, rep.by its
Public Prosecutor, High Court, Hyderabad

.....RESPONDENT

DATE OF JUDGMENT PRONOUNCED: **13.08.2015**

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

1. Whether Reporters of Local newspapers may be Yes/No
allowed to see the Judgments?

2. Whether the copies of judgment may be marked Yes/No to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wishes to see Yes/No the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL REVISION CASE No.472 of 2015

ORDER:

This Criminal Revision Case is filed against the order dated 03.03.2015 in CrI.MP.No.861 of 2015 in C.C.No.182 of 2011 on the file of the Judicial First Class Magistrate, Kaikaluru, Krishna District, by and under which, the petition filed under Section 323 Cr.P.C to add the section of law in the pending Calendar Case was acceded.

Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor for the State.

The brief averments of the case are that the *de facto* complainant filed a complaint alleging that on the date of incident the petitioners who are A1 and A2 and who happened to be the ladies have trespassed into the house of the *de facto* complainant, beat her and dragged her by holding her tuft and torned her nighty upto the upper part, thereby outraged her modesty.

Originally the charge sheet was filed alleging offence punishable under section 323 IPC. After the evidence was recorded, the prosecution filed a petition under Section 323 Cr.P.C to add section 354 IPC. The learned Magistrate taking into consideration the entire material on record, contents of the complaint and the evidence already placed on record and having heard both the counsel, by order dated 03.03.2015 has directed that the section of law be altered as under Section 354 IPC and consequently the case is converted into PRC which is exclusively triable by Court of Sessions.

After having heard the learned counsel for the petitioners elaborately, I do not find that the order of the learned Magistrate in any way irregular or illegal. During course of trial, if any material is placed before the Court below, it is for the Court below to decide as to what is the offence that is actually attracted, and if in the opinion of the Court below that the offence is made out which is triable by a Court of Sessions, proceeding further in the calendar case is otiose.

The order of the Court below does not suffer from any infirmity, and therefore, the Criminal Revision Case is dismissed. However, the learned Magistrate is directed to comply with his own order and commit the case to the Court of Sessions, as expeditiously as possible and thereafter, the concerned Sessions Court shall dispose of the matter, as expeditiously as possible, preferably within a period of 6 (six) months from the date of receipt of the entire record from the Committal Court.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 13.08.2015

Dsr