

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1572 of 2015

ORDER:

The petitioner filed this Criminal Revision Case by invoking the provisions under Sections 397 and 401 of the Criminal Procedure Code being aggrieved by the order, dated 25.06.2014, passed in CFR No.2609 of 2011 in PRC No.33 of 2014 by the Judicial Magistrate of First Class, Kurnool, whereby the learned Magistrate has taken cognizance against the petitioners for the offences punishable under Sections 323, 342, 506 and 379 IPC and 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act').

Heard and perused the material available on record.

The de facto complainant- 2nd respondent lodged a complaint on 25.03.2013 against the petitioner before the I-Additional Judicial Magistrate of First Class, Kurnool, alleging offences under Sections 324, 323, 342, 357 and 506 IPC r/w.3 (1) (x) of the Act. The said complaint was forwarded to the Station House Officer, Orvakal P.S., for investigation. After completion of the investigation, the Investigating Officer filed final report before the Judicial Magistrate of First Class, Kurnool, by referring the case as 'False.' Aggrieved by the same, the 2nd respondent filed protest petition before the I-Additional Judicial Magistrate of First Class, Kurnool. The learned Magistrate, through the impugned order, took cognizance of the offences punishable under Sections 323, 342, 506 and 379 IPC and 3 (1) (x) of the Act, against the petitioner. Aggrieved over the same, the present revision is filed by the petitioner.

The main grievance of the petitioner is that after closure of FIR by the competent authority, the learned Magistrate has taken cognizance of the offences against the petitioner erroneously, without proper application of mind.

After perusing the entire material available on record, this Court is of the view that the learned Magistrate has taken cognizance of the case against the petitioner, after recording the sworn statements of the complainant and also the witnesses. Hence, this Court is not inclined to interfere with the cognizance taken by the learned Magistrate. At this juncture, learned counsel for the petitioner confined his argument only to the extent of dispensing with the presence of the petitioner before the committal Court as well as the trial Court and requested this Court to recall the NBWs pending against the petitioner.

Considering the facts and circumstances of the case, the petitioner is directed to approach the Court concerned and file an application to recall the NBWs pending against him and on such application being filed, the Court concerned shall recall the NBWs on the same day. The presence of the petitioner is dispensed with before the committal Court, except on the date on which the case is committed to the Sessions Court. On appearance before the Sessions Court, the petitioner is at liberty to file a discharge petition. If such application is filed by the petitioner, the Sessions Court concerned shall consider the same and pass appropriate orders in accordance with law.

Accordingly, the Criminal Revision Case is disposed of. Miscellaneous petitions pending if any, shall stand closed.

RAJA ELANGO, J

January 28, 2016.

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