

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

Criminal Revision Case No. 2494 of 2013

Judgment:

Questioning the impugned docket order, dated 06.11.2013, passed by the learned XVI Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, remanding the petitioner/accused in Crime No.56 of 2013 of Shalibanda Police Station, Hyderabad, for the offences punishable under Section 324 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'), even though the police filed remand report against the petitioner/accused only for the offence under Section 324 IPC, the present revision is filed.

2. The facts, in brief, are that the *de facto* complainant lodged a report alleging that, on 08.04.2013, while he was attending a cable work near St. Aurobindo High School, Laldarwaja, the petitioner/accused and his followers abused him in filthy language touching his caste and beat him causing bleeding injuries. The said report was registered as a case in Crime No.56 of 2013 of Shalibanda Police Station, Hyderabad, for the offences punishable under Section 3(1)(x) of the Act and Section 324 IPC. The police, after investigation, remanded the petitioner/accused for the offence under Section 324 IPC alone by deleting Section 3(1)(x) of the Act on the ground that no case is made out under the said Act. However, the learned Magistrate has remanded the petitioner/accused for the offences punishable under Section 3(1)(x) of the Act and Section 324 IPC.

3. The main contention of the learned counsel for the petitioner/accused is that when the investigating agency clearly stated in the remand report that no case is made out under Section 3(1)(x) of the Act, the learned Magistrate erred in adding the said proviso and

remanding the petitioner/accused for the said offence also. His further contention is that the learned Magistrate has failed to appreciate the fact that for deletion of a particular proviso by the investigating agency does not warrant any notice to the *de facto* complainant unless entire crime is to be referred as false.

4. Having perused the entire material on record and the impugned docket orders passed by the learned Magistrate, I see no irregularity or illegality having been committed by the learned Magistrate in remanding the petitioner/accused for the offences punishable under Section 324 IPC and Section 3(1)(x) of the Act, even though the police in the remand report stated that the ingredients of Section 3(1)(x) of the Act are not made out.

5. Originally, the crime was registered against the petitioner/accused for the offences punishable under Section 324 IPC and Section 3(1)(x) of the Act, but, during the course of investigation, the Investigating Officer, having found that there is no material to proceed against the petitioner/accused for the offence punishable under Section 3(1)(x) of the Act, thought it fit to remand the accused only under Section 324 IPC. However, the learned Magistrate, on perusal of the entire material on record, found that *prima facie* there is material to attract Section 3(1)(x) of the Act and, accordingly, remanded the petitioner/accused for the offences punishable under Section 3(1)(x) of the Act and Section 324 IPC. In the remand order, the learned Magistrate has also observed that a notice should be given to the *de facto* complainant by the investigating officer before deleting Section 3(1)(x) of the Act. Even though, that direction of the learned Magistrate to issue notice to the *de facto* complainant before deleting Section 3(1)(x) of the Act is not proper, but, what is noticed is that the act of the learned Magistrate in issuing notice to the *de facto* complainant would not in any way affect his discretionary power in remanding the petitioner/accused under Section 3(1)(x) of the Act and

Section 324 IPC, though the police filed remand report only for the offence under Section 324 IPC. In that view of the matter, there is no merit in the revision case and the same is liable to be dismissed.

6. Accordingly, the Criminal Revision Case is dismissed.

7. As a sequel thereto, the miscellaneous petitions, if any, pending in the Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 18.01.2016

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