

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.10634 of 2018

ORDER :

The petitioners are allegedly implicated as A.3 to A.10 in the remand report of A.1 and A.2, though their names were not found place in F.I.R. in Crime No.128 of 2018 of Thondangi Police Station, East Godavari District, out come of the report of the 2nd respondent/*de facto* complainant invoking the provisions of Sections 324 and 506 read with 34 IPC and Sections 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, 'the SC/ST Act) and also included Section 326 IPC.

2. No doubt, in the remand report it is altered to Section 326 IPC from Section 324 IPC. A perusal of the F.I.R. no where mentions the names of other persons other than A.1 and A.2, but for as if 15 others. In the remand report the names of petitioners/A.3 to A.10 shown from the so-called statements of LWs.2 to 7 examined. LWs.4 to 7 not even witnesses to the occurrence and LWs.1 to 3 are the so-called injured. Leave about the fact that the presence of A.3 to A.10 not mentioned in F.I.R. by LW.1/*de facto* complainant of the alleged attack by A.1 and A.2 along with 15 others, only mentioned against LWs.1 to 3, there is no public view as contemplated to attract the offence under Section 3(1)(s) of the SC/ST Act, thereby to that extent including from perusal of the remand report what all mentioned of LWs.4 to 7, who were stated working nearby fields when tried to

come to save them, accused threatened them only mentioned and it is not even the case that in their presence and public view, A.1 and A.2 or other accused abused LW.1 or 2 or 3 touching the caste. No doubt, as pointed out by learned Public Prosecutor from the very Section 324 or 326 IPC, Section 3(2)(va) of the SC/ST Act that applies. So far as the altering in the remand report the offence from Section 324 IPC to 326 IPC concerned, the wound certificate of Lokesh Babu (LW.1) shows what are the injuries is sustained are all simple in nature and coming to wound certificate of K. Subba Rao also mentioned as simple, but for one injury of tenderness over left knee joint from the x-ray at right fibula grievous. It is not even mentioned as to said injury for referring as grievous there is any radiology report.

3. Having regard to the above and before admission and before notice to the 2nd respondent/*de facto* complainant, the petition can be disposed of by holding that there is no offence under Section 3(1)(s) of SC/ST Act that applies, but for if at all the other offences and pending investigation not to arrest the petitioners whose names not find place in the F.I.R., but for to secure their presence if at all required during investigation. All defences are left open.

4. With the above observations, the criminal petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22nd November 2018.
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