

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7404 OF 2018

ORDER:

The petitioner is the accused in Crime No.276 of 2018 of Subedari Police Station, Hanamkonda, Warangal, registered for the offences punishable under Sections 504, 324 & 506 of Indian Penal Code (for short, "IPC") and Sections 3(1)(r)(s) & 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, "SC & ST (POA) Act"), which is outcome of the report of the 2nd respondent/*de facto* complainant of the alleged occurrence, dated 24.06.2018, at 7.15 a.m. or 7.30 a.m. and the report given was at 18.30 hours on 29.06.2018 after four days.

2. Heard learned counsel for the petitioner and the learned counsel for the 2nd respondent/*de facto* complainant and the learned Public Prosecutor representing the 1st respondent State and perused the FIR, quash petition averments and the case and counter connected with other crimes pending, which is outcome of a matrimonial dispute between the *de facto* complainant's friend's family with the petitioner/accused.

3. A perusal of the record shows besides the present crime, Crime No.146 of 2017 of Mamnoor Police Station, Warangal, for the offences punishable under Sections 324 read with 34 IPC, dated 24.12.2017, pending, from the report of one Sd.Habeeb against one Shaik Javeed, Yakub Pasha and others, which include the *de facto* complainant – Kandukuri Suman. That report is only by brother-in-law of the petitioner/accused and there is also counter case to this case. According to the petitioner, that was not registered by Police. Even he sustained injuries covered by medical certificate of contusion over right arm from examination on 24.06.2018 noon time for the alleged

occurrence on that day morning even from that report, which no way contains any acknowledgement or receipt by police even to rely, further substantiates the occurrence herein. Once such is the case, there are no grounds to quash the proceedings even from that delay, which is a matter of defence left open for future other than to say from the very perusal of the report, there is no any public view and nothing mentioned of any persons present or witnessed the occurrence at the time of the so-called abuses and what is mentioned in the report that it is in the public place itself no way constitutes public view in the absence of showing any other persons witnessed at the time of the alleged abuse, thereby there is no basis for the police to register the crime for the offence punishable under Section 3(1)(r)(s) of the SC & ST (POA) Act, but for, for the schedule offence under Section 324 IPC to register under Section 3(2)(Va) of the SC & ST (POA) Act.

4. Taking consideration of these facts, by quashing the proceedings only to the extent of the crime registered for the offence punishable under Section 3(1)(r)(s) of the SC & ST (POA) Act, which no way prevent the police to investigate and if at all any offence made out to include in the charge sheet for any such defence left open pending investigation the petitioner shall not be arrested, however, it will not prevent to secure his presence and if he failed to attend to the summoning for appearance for the purpose of investigation, the order of not to arrest ceases its force, provided there is acknowledgement or return of service to attend.

5. Accordingly, the Criminal Petition is partly allowed.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

Date: 25th January, 2019
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