

ORDERS ON APPLICATION FILED UNDER SECTION
323 of Cr.P.C.

The present application is filed by the prosecution U/s 323 of Cr.P.C. against the Accused seeking transfer of this case to the Hon'ble I Addl. District & Sessions Court, Hassan on the ground that C.R.No.50/2020 is pending before the said Court against the same Accused under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Ordinance 2014. It is contended that the present case is filed under Section 341, 504, 506, 354, 323 r/w 34 of IPC while Special case No.313/2020 is filed under Section 3(1)(r)(s)3(2),(VII), 506, 504 r/w 34 of IPC. The complainant in the present case is the Accused in Special Case No.313/2020. As both the cases relate to the same incident, it is necessary to transfer this case to the Court of Hon'ble I Addl. District & Sessions Court, Hassan. Hence, it is prayed that the application be allowed.

2. To this application, the learned counsel for the Accused has filed objections contending that the same is not maintainable and is liable to be dismissed. It is contended that the present application is not maintainable as the C.R.No.50/2020 is filed under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Ordinance 2014 and hence, this case cannot be committed to the Hon'ble Sessions Court. The offences alleged against this Accused in this case cannot be committed and hence, it is prayed that the application be dismissed.

3. Heard arguments advanced on behalf of both sides.

4. The points that would arise for my determination are:

- 1) Whether the prosecution has made out sufficient grounds for allowing the said application?
- 2) What order?
5. My findings on the above points are as under:
 - Point No.1 : In the **Negative**
 - Point No.2 : As per final order for the following:

REASONS

6. **Point No.1:** In this case, it is seen that the no doubt two cases are filed against the complainant and Accused and they arise out of a common incident but the charge sheet filed attract different offences. The complainant has been charged under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Ordinance 2014 which is exclusively triable by the Hon'ble Sessions Court while the present Accused have been tried under sections 506, 341, 323, 354 r/w 34 of IPC. This Court has the power to try the matter in respect of this case and does not have the power to commit the case to the Hon'ble Sessions Court as the sections alleged in this case are exclusively triable by this Court and not by the Sessions Court. This being a subordinate Court cannot on its own accord transfer the case to the Hon'ble Session Court without order from the superior Court. Hence, I answer point No.1 in the **Negative**.

7. **Point No.2:** In view of reasons assigned above, I proceed to pass the following:

ORDER

The application filed by the prosecution U/s 323 of Cr.P.C. is hereby dismissed.

Call on 18.4.2024.

**(Smt.Anitha G.)
Senior Civil Judge & JMFC,
Arasikere.**