

CRITICAL ANALYSIS OR THE AMENDMENT OF THE Cr.P.C.*By*

—G. KABARDHI, B.Com., B.L.
Senior Civil Judge,
Asifabad, Adilabad Dist.

It is known fact that when compare to the pendency of the civil cases, criminal cases are more in the Courts. The Government is also afraid of pendency of cases. As per the recommendations made by the law commission, the acts are amended from time to time like so recently there was an amendment to the Cr.P.C. to Section 320 where several offences were made as non-compoundable and the most important sections effect under present amendment to Section 324, 379 and 354 IPC.

Prior to the amendment an offence under Section 324 IPC is compoundable and it is bailable. Now at present because of the recent amendment it was made as non-compoundable and non-bailable. Like so an offence under Section 354 IPC prior to the amendment it is compoundable but now it was made as non-compoundable. But the offence under Section 379 IPC prior to the amendment it is non-compoundable offence and now it was made as compoundable. Though the offence under Section 324 IPC is smaller to the offence under Section 325 IPC but it was made as non-bailable and non-compoundable whereas the injury in respect of the offence under Section 325 IPC is grievous one but still it was made as bailable and compoundable. Because of the present amendment even though the injured received simple injuries and both parties entered into compromise, but as it is made as non-compoundable, thereby the matter could not be settled in the Lok Adalath, but where as the injuries received is grievous under Section 325 IPC as it is made as compoundable, those offences are settling in the Lok-Adalath. But the common man could not able to understand

why this is happened and why his case could not be settled.

The parliament might have brought this amendment considering the weapon which was used in the commission of offence. For better appreciation it is better to mention the Section 324 IPC, 325 and 334 IPC.

Sections 324, 325, 334 and 335 IPC reads as follows :

*324. Voluntarily causing hurt by dangerous weapons or means :—*Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poisoned substance, or by means of any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

*325. Punishment for voluntarily causing grievous hurt :—*Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*334. Voluntarily causing hurt on provocation :—*Whoever voluntarily causes hurt on grave and sudden provocation, if the neither

intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

*335. Voluntarily causing grievous hurt on provocation :—*Whoever 1[voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years or with fine which may extend to two thousand rupees, or with both

As it is mentioned that under Section 324 IPC is for causing simple injury by dangerous weapon thereby the law commission would have recommended to made the offence under Section 324 IPC as non-compoundable and non-bailable one. But in fact if we collected the statistical information from all the Courts or police station there will be several cases under Section 324 IPC will be reported.

These offences under Sections 334, 335 and 325 IPC are compoundable in nature. Though the injuries received under Section 334 IPC is voluntarily causing hurt not with deadly weapons so also voluntarily causing grievous hurt not by deadly weapons. Those two offences were made as compoundable one. Why I am mentioning the said aspect is as there were no deadly weapons which are used in the commission of offence those offences were made as compoundable i.e. Section 325, 334 and 335 IPC. Since the deadly weapon is used in commission of offence, thereby even though the injuries received are simple in nature but it was made as non-compoundable [Under Section 324 IPC]

Now the difficulty arises in getting bail and getting compoundable the offence. Normally in the villages there will be fraction, quarrels and galatas will took place on each and every thing and because of sudden commotion there may be free fight among two parties and both parties will receive very simple injuries but they might have received injuries with sticks [though it may be deadly weapons]. So because of the nature of weapon i.e. stick police will registered the case under Section 324 IPC. But the matter might have been compromised on the very next day or soon after the bail but because the offence is non-compoundable in nature, the police people will file the charge-sheet since already matter was compromised between parties, the parties will not support the case of the prosecution, thereby the Courts have to acquit the cases. The precious time of the Court will be wasted, and the institution pendency will also be more without any useful purpose.

This is right occasion for the parliament to reconsider this issue particularly in respect of the offences covered under Section 324 IPC as bailable and compoundable. Otherwise there is every possibility for the people to foul a play on the Court as well as police to register case under Sections 325, 334, 335 IPC but not under Section 324 IPC. This is fit case where the recommendations are to be made by Hon'ble Supreme Court of India to the parliament to amend the proviso to Section 320 IPC.

With regard to Section 379 IPC. In a case under Section 379 IPC the offender may be unknown person. There is no possibility for the victim to have acquaintance of accused. When there is no acquaintance the question of compromise and the question of compounding offence will never arise. In common phenomena the compromise will arose in between parties who had got acquaintance with each other. Without knowing and without having acquaintance the

compounding the offence under Section 379 IPC is of no use at all. I do not want to discuss more about the compounding nature of Section 379 IPC because the victims will not come forward to compound the offence.

With regard to Section 354 IPC. Out raging modesty of women is serious offence it should be non-bailable, but it is to be made as compoundable then there is every possibility for the offence to be settled before

Lok-Adalath. Because after the offence the matter might have been placed before caste elders or caste panchayat in whose presence, the accused might have took plea of pardon or terms will also be imposed by the panchayath elders and if offenders under Section 354 IPC is made as compoundable, the precious time of the Court will be saved.

“Justice is not only to be done it must be seems to have been done”.

NEED OF AMENDMENT TO NATIONAL LEGAL SERVICES AUTHORITY ACT

By

—G. KABARDHI, B.Com., B.L.
Senior Civil Judge,
Asifabad, Adilabad Dist.

The people are approaching Courts as final resort to get the remedy for their legal rights. The National Legal Services Authority Act was introduced in the year 1986 empowers the Legal services Authorities *i.e.* District Legal Services Authority and Mandal Legal Services Authority to take up and to settle pre-litigation cases. It also empowers the Chairman of the said Legal Services Authority to pass award which can be enforceable under the law. The intention of introduction of settlement of pre-litigation case is to settle the dispute between the parties, prior to institute of suit so that institution pendency can be reduced. In order to settle the case under pre-litigation case, both parties shall attend before the said authority and the matter will be settled in between the parties as per the agreed terms took place in between them.

The compulsion presence of both parties is a must. There are so many occasions where Mandal Legal Services Authority or District

Legal Services Authority could not able to settle the pre-litigation case as respondent *i.e.* opposite party is not attended before this Court. There are no powers given to the Chairman Mandal Legal Services Authority/ District Legal Services Authority to take coercive steps in securing the presence of respondent/opposite party.

For example : A villager approached Legal Services Authority that the concern revenue people are not effecting the mutation even though he is entitled for mutation and they are not responding to his application. Naturally after entertaining the application/petition, the Chairman will issue notice to the concern revenue people to attend before the authority on a specified date but the revenue people will not or could not attend on the said specified date even though the notice is served on revenue people. If they attend before the authority, they will effect the mutation in favour of the petitioner, if the petitioner is entitled. Like so, issuance of pattadar