

**THE HON'BLE SRI JUSTICE RAJA ELANGO**

**Crl.R.C.No.2795 of 2015**

**ORDER**

The present criminal revision case is directed against the docket order dated 19.10.2015 passed in Crl.M.P.No.4055 of 2015 in C.C.No.303 of 2015 by the learned Judicial Magistrate of First Class, Pattikonda.

2. The second respondent herein filed a complaint against A1 to A6 for the offences punishable under Sections 326, 506 read with Section 34 IPC. After completion of investigation, the police filed the charge sheet against A1 to A5 deleting the name of A6 and the case was taken on file as C.C.No.303 of 2015. Aggrieved by the same, the second respondent filed a protest petition stating that due to political influence, the name of A6 was deleted in the charge sheet and therefore, he seeks to take cognizance against A6. By the order impugned, the trial Court passed the following order;

“The complainant is present. Perused the objections filed by the complainant vide Crl.M.P.No. /2015. In these circumstances the contention of the complainant stated in the objections vide Crl.M.P.No.4055/2015 is accepted. Hence, the office is directed to proceed the matter further according to law in order to avoid undue delay in proceed the case further.

Challenging the same, the petitioner/A6 filed the present revision.

3. Heard and perused the material on record.

4. From a perusal of the order impugned, it is evident that the trial Court while accepting the contentions of the complainant directed the office to proceed with the matter in accordance with law in order to avoid undue delay. When a protest petition, which is in the nature of a complaint, is filed, the learned

Magistrate has to examine the petitioner along with the witnesses produced by him and after recording their statements, he can compare the same with the statements recorded by the police under Section 161 Cr.P.C. and thereafter, if he comes to the conclusion that some more persons are also involved in the crime, he can take cognizance and issue summons to them. In the present case, the trial Court has not followed any procedure in accordance with law. Hence, the impugned order dated 19.10.2015 is hereby set aside. However, it is made clear that the second respondent/de facto complainant is at liberty to file a fresh application and on filing such an application, the learned Magistrate shall take appropriate steps in accordance with law.

5. Accordingly, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, pending in this revision shall stand closed.

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**JUSTICE RAJA ELANGO**

26<sup>th</sup> November, 2015

sj