

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2133 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order, dated 10.09.2015, passed in CrI.M.P.No.118 of 2015 in Criminal Appeal No.1 of 2014 by the Court of the I Additional District and Sessions Judge, Srikakulam, whereby the learned Judge dismissed the petition filed by the petitioner seeking to examine the petitioner as a witness and also to mark the documents to show that the petitioner is not the owner of the shop.

Heard and perused the material available on record.

During the course of trial, the petitioner has produced the documents before the trial Court at the time of examination under Section 313 CrPC and the said documents are obtained by him under Right to Information Act and produced the same to establish that the shop, from which the articles purchased by the complainant, belongs to another person, Jami Raghuram. But the trial Court has failed to consider the same and as such, the petitioner has filed the petition before the lower appellate Court. Learned counsel for the petitioner before the lower appellate Court sought to mark the said documents through the petitioner to make it as an evidence to show that the shop does not belong to him. The lower appellate Court dismissed the petition observing as under.

On perusal of the entire case record, it is revealed that the petitioner appellant filed a memo during 313 Cr.P.C., examination conducted by the trial Court stating that the alleged Kirana shop stood in the name of Jami Raghuram that the petitioner/appellant was not owner of the shop, which the trial Court has not considered further Section 20 of the Prevention of Food Adulteration Act in respect of sanction to prosecute, Section 7 deals with person who is present at the time of inspection or transacting the business is liable for punishment for contravention of the provisions herein before, as such the alleged copies of documents reveal that shop belongs to one Jami Raghuram, s/o late Kameswara Rao will no way help the case of the petitioner/appellant and the trial Court has already exhaustively dealt with that

aspect, further the documents are constituent integral part of record, since the documents are part of record, since the documents are part of record there is no necessary to file the same.

In the facts and circumstances of the case, this Court is of the view that even though the documents are not marked at the time of trial, as the documents are obtained under the Right to Information Act, the authenticity of the documents is not in question, the lower appellate Court is directed to consider the same at the time of disposal of the appeal in favour of the petitioner herein.

With the above observations, the criminal revision case is disposed of. Consequently, the miscellaneous petitions filed in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

29.09.2015

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