

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2128 OF 2014

ORDER:

This Criminal Revision Case is filed against order, dated 18.09.2014, passed in Crl. Revision Petition No.52 of 2012, by the Metropolitan Sessions Judge, Vijayawada, whereby the learned Sessions Judge set aside the order, dated 01.05.2012, passed in C.F. No.3123 of 2012 in Crime No.586 of 2009 by the III Additional Chief Metropolitan Magistrate, Vijayawada.

The brief facts of the case are that the 2nd respondent herein lodged a complaint before the Station House Officer, Machavaram Police Station, Vijayawada, stating that she is the tenant of one late Uppalapati Aruna Devi and the 1st petitioner herein is the daughter-in-law of said Aruna Devi. After demise of said Aruna Devi, the 1st petitioner used to collect the rent from the 2nd respondent. The 2nd respondent was carrying on business in jewellery in the name and Style of M/s.Abharan Jewellery in the said premises. On the intervening night of 15/16.11.2009, all the petitioners conspired together and break open the locks of the business premises of the 2nd respondent and removed furniture worth Rs.25,00,000/-, committed theft of jewellery worth Rs.10,00,000/- and cash of Rs.2,20,000/-. Basing on the said report, the police registered a case for the offences under Sections 451, 427 and 506 read with 34 IPC. After completion of investigation, the police referred the same as civil in nature and mistake of fact. Aggrieved over the same, the 2nd respondent filed a protest petition.

The protest petition was rejected by the learned trial Judge on the ground that the said Court has no jurisdiction to entertain the said petition. Against the said order, the 2nd respondent filed a revision petition before the Metropolitan Sessions Judge, Vijayawada. The learned Sessions Judge, after referring number of decisions, allowed the revision petition by observing as follows:

“In the result, revision petition is allowed, impugned order in C.F. No.3153/12 on the file of III Additional Chief Metropolitan Magistrate,

Vijayawada is set aside and consequently, the proceedings in RCS No.2/2012 is set aside and revision petitioner is directed to attend the court below on 30.09.2014 and file her objections if any and learned Magistrate is directed to hear objections if any filed by the revision petitioner and proceed according to law.”

Challenging the above said order, the present revision case is filed by the petitioners.

The main grievance of the petitioners is that the learned Sessions Judge has passed the impugned order without providing an opportunity to them and no orders should be passed without hearing the other side.

Heard and perused the material available on record.

It is true that there is a bar to pass any orders against any person in revision without issuing notice. But it always depends upon the facts and circumstances of each and every case. In the present case, even before the trial Court, the petitioners are not arrayed as accused. The de facto complainant filed an application to include them as accused, by way of filing a protest petition. The same was rejected by the trial Court, against which a revision petition was filed. In the impugned order also, the learned Sessions Judge observed that it is the duty of the trial Court that whenever an application is filed, to hear the same and pass appropriate orders, instead of rejecting the application.

In the circumstances, this Court is of the view that there is no need to issue any notice to the petitioners herein and it is not a mandatory duty of the revision Court to hear the other side also.

Hence, the Criminal Revision Case fails and the same is, accordingly, dismissed. Miscellaneous pending if any, shall stand closed.

RAJA ELANGO, J

June 10, 2015.

KTL