

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No. 88 of 2011

ORDER:

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This Criminal Petition is preferred by the petitioners-A.1 to A.3 under Section 482 Cr.P.C to quash the proceedings in C.C.No.160 of 2007 on the file of III Additional Judicial First Class Magistrate, Tirupati, Chittoor District.

The brief facts of the case are as follows:

Based on a complaint given by the first respondent herein, the Station House Officer, Tiruchanur Police Station, registered a case in Crime No.69 of 2004 under Sections 147, 148, 447, 427 and 506 I.P.C r/w 149 I.P.C against the petitioners herein and 11 others. Since charge sheet was not filed within one year, the Station House Officer, Tiruchanur Police Station, closed the F.I.R in the said crime as per the Circular of this Court in ROC No.274 dated 09.07.1980 and the same was endorsed by the learned III Additional Judicial Magistrate of First Class, Tirupati. However, three years thereafter, without there being any order for further investigation, the Station House Officer, Tiruchanur Police Station, filed charge sheet in the said crime by adding Section 379 I.P.C.

Learned counsel for the petitioners submitted that once the FIR was closed and the same was endorsed by the learned Magistrate, there cannot be any further investigation in the said crime, without there being any order either by the learned Magistrate or by the Sessions Court. But, in the instant case, the Investigating Agency filed charge sheet three years after the closure of the FIR, that too, without obtaining any order for further investigation, and the same is erroneous in law.

This Court heard the arguments and perused the record.

As rightly pointed out by the learned counsel for the petitioner, FIR in the said crime was closed by the Magistrate concerned since charge sheet was not filed within one year. The record does not disclose any order of the learned Magistrate for further investigation in the said crime. However, without there being any order by the Magistrate for further investigation, filing of the charge sheet in the closed FIR before the concerned Magistrate is not permissible in law and the action of the learned

Magistrate in taking cognizance of the same is erroneous in law.

In the circumstances, the proceedings in C.C.No.160 of 2007 on the file of III Additional Judicial First Class Magistrate, Tirupati, Chittoor District, are hereby quashed.

The Criminal Petition is accordingly allowed.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 04.11.2015

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