

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1305 OF 2015

ORDER:

This Criminal Revision Case is filed against order, dated 22.05.2015, passed in PRC No.11 of 2015 by the Judicial Magistrate of First Class, Tiruvuru, arising out of Cr. No.60 of 2012 of A.Konduru Police Station, registered for the offences punishable under Sections 147, 148, 447, 427, 324 and 307 read with 149 IPC.

The brief facts of the case are that when the de facto complainant was present in her house, the petitioner along with other accused, armed with sticks, knives, axes and chilly powder, came to her house premises and trespassed into the house and dismantled the house of her mother in law. When the de facto complainant questioned about the high-handed act of the petitioner and other accused, they beat her by catching her tuft of hair. The husband, brother in law and son of the de facto complainant came to rescue her. The accused beat them also with axes and inflicted bleeding injuries. When the villagers came to rescue them, the accused beat them also by spraying the chilly powder. All the accused attacked the de facto complainant and her family members and tried to kill them due to some dispute with regard to property. On the complaint lodged by the de facto complainant, the police of A.Konduru, registered a case in Crime No.60 of 2012 for the offences punishable under Sections 148, 447, 307 and 324 read with 34 IPC and took up investigation.

After completion of investigation, police filed the charge sheet for the offences punishable under Sections 147, 148, 447, 427, 324 and 307 read with 149 IPC, against the accused, by deleting the name of the petitioner. The Court below ordered notice to the de facto complainant with regard to her objection for deletion of the name of the petitioner in the charge sheet and posted the matter to 22.05.2015. On

22.05.2015, the de facto complainant was present before the Court below and filed a memo praying the Court to remain the petitioner as an accused in the case, upon which the Court below had passed the following order:

“Defacto complainant present. Heard the defacto complainant. She stated that she is having objection with regard to deletion of proposed accused Banavath Ramu (A3) and submitted a memo with this regard.

This case is taken on file as PRC against A1 to A10 and Banavth Ramu for the offences punishable U/s 147, 148, 447, 427, 324, 307 r/w 149 IPC. And registered as PRC. All the accused are on bail. Banavath Ramu was not arrested. Issue NBW against Banavath Ramu. Issue summons to accused call on 11-06-2015.”

Heard and perused the material available on record.

A mere perusal of the order itself discloses that the learned Magistrate has not applied his mind and also has not followed the procedure to implead a person as an accused, after deletion of the name of that person in the charge sheet by the police. Hence, this Court is of the view that the order passed by the Court below is liable to be set aside.

Accordingly, the order passed by the Judicial Magistrate of First Class, Tiruvuru, in PRC No.11 of 2015, dated 22.05.2015, is hereby set aside. In case, any application is filed by the de facto complainant for inclusion of the name of the deleted accused, the learned Magistrate shall pass appropriate orders in accordance with law, after following due procedure.

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

July 13, 2015.
KTL

RAJA ELANGO, J