

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.1191 of 2015

-
ORDER
-

This revision is directed against the order dated 13.02.2015 passed in Crl.M.P.No.9 of 2014 in S.C.No.165 of 2013 by the learned Assistant Sessions Judge at Sompeta.

2. The first respondent-State filed Crl.M.P.No.9 of 2014 seeking to add the names of A1, A6 and A9 as additional accused in the Sessions Case to face trial along with the other accused.

By the order impugned, the trial Court allowed the said petition to add A1,A6 and A9 as accused to try together along with the other accused A2 to A5, A7, A8, A10 and A11 and also issued non-bailable warrants against A1,A6 and A9. Aggrieved by the same, the petitioners/A1,A6 and A9 filed the present revision.

3. Heard both sides and perused the material on record.

4. The impugned order discloses that the learned Sessions Judge, relying upon the chief-examination of P.W.1, allowed the said petition for adding of A1, A6 and A9 as accused in the said Sessions Case. The cross-examination of P.W.1 was not yet completed. Evidence means and includes the chief and cross-examination of the witness. Even prior to cross-examination of P.W.1 and without there being any corroborative evidence, the learned Judge passed the order impugned. Therefore, this Court finds that the learned Judge ought to have considered that there

was sufficient evidence indicating involvement of petitioners in the offence and that only after chief-examination of P.W.1, he cannot come to the conclusion about their involvement in the crime since the evidence is not yet completed. Therefore, this Court is of the view that the order impugned is not sustainable and the same is, accordingly, set aside. However, it is left open to the trial Court that after examination of all the witnesses, it is appropriate to invoke the provisions of Section 319 Cr.P.C., if the trial Judge so desires.

5. With the above observation, the Criminal Revision Case is disposed of. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

2nd July, 2015

sj