

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.466 OF 2015

ORDER:

This Criminal Revision Case is filed by the petitioners-challenging order, dated 23.02.2015, passed in CrI.M.P. No.53 of 2015 in S.C. No.102 of 2013 by the VI Additional District and Sessions Judge, Sompeta, Srikakulam District, whereby the learned Sessions Judge dismissed the discharge application filed by the petitioners.

Heard and perused the material available on record.

The brief facts of the case are that the on 18.03.2006 one Durgasi Jaggayya (husband of A1) brought one white plastic cane, filled with ID arrack type liquid to his house and consumed 1/4th quantity at his house and thereafter, he suffered with loose motions and vomitings and on the early hours of 19.03.2006 he expired at his house. The relatives of the deceased and some of the villagers were attended to the funeral of the deceased and at that time, as a caste custom, the family members of the deceased distributed the ID arrack, which was kept in the house of A1 and also the liquor brought from the house of A2. After consuming the same, D1 to D13 and LWs.2 to 19 suffered with loose motions and vomitings and were shifted to community hospital for treatment. D1 to D6 died on the same day while undergoing treatment and thereafter the remaining people were shifted to other hospitals. D7 to D12 died on the next day and D13 died on 21.03.2015 while undergoing treatment. On the complaint given by the Village Secretary, a case in rime No.17 of 2006 for the offence under Section 304(A) IPC and Section 7(a) and 8 (c) of the A.P. Prohibition Act, was registered against the petitioners – accused. After completion of investigation, the police filed charge sheet before the Judicial Magistrate of First Class, Ichapuram. The learned Magistrate took cognizance of the case for the above said offences

against A1 to A18.

On 03.07.2015, the 8th petitioner – A8 died. The petitioners – A1 to A7 and A9 to A15 filed CrI.M.P. No.53 of 23015 before the VI Additional District and Sessions Judge, Sompeta with a prayer to discharge them from the offences levelled against them on the ground that none of the accused had any motive or intention to commit the said offences or they had knowledge that the liquor was spurious and there is no material to prove the prima facie case against the accused. The learned Additional Public Prosecutor objected the application by submitting that there is a prima facie case against the petitioners. The trial Court after hearing both sides and after discussing elaborately, dismissed the application by observing as follows:

“Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that the judge shall discharge when he considers that there is no sufficient ground for putting the accused on trial. It is in the trial the guilt or innocence of the accused will be determined and not at the time of framing of charge. The Court need not take elaborate enquiry in shifting or weighting the material. Nor it is necessary to delve deep into various aspects. All that the court has to consider is whether the evidentiary material on record if generally accepted would reasonably connect the accused with the crime. No more need be enquired into. There is strong prima facie case and material on record as such the charges are to be framed in the present case. Accordingly, the point is answered.”

Against the said dismissal order, the present revision is filed.

Learned counsel for the petitioners submitted that the order passed by the learned Sessions Judge is contrary to law, that there is absolutely no material to show that on the previous day of the incident, A12 and A13 sold the arrack and the petitioners distributed the arrack among themselves and they do not know that the arrack is spurious one, and some of the petitioners are agricultural coolies and therefore, the petitioners may be discharged from the charges levelled against them.

The truth or otherwise of the allegations levelled against the

petitioners can be decided after due trial. If the Court feels that there is no *prima facie* offence to frame the charge against the accused, then only the accused can be discharged. Hence, this Court is not inclined to interfere with the order passed by the Court below. However, taking into consideration that there are no specific overt acts against the petitioners 12 and 13 – A12 and 13, this Court is inclined to dispense with the presence of the petitioners 12 and 13 before the trial Court.

Accordingly, the Criminal Revision Case is dismissed. However, the presence of the petitioners 12 and 13 i.e. Accused Nos.12 and 13 is dispensed with before the trial Court. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

June 23, 2015.
KTL