

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2752 OF 2015

ORDER:

The petitioners have preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.), being aggrieved by the order, dated 14.10.2015, passed in CrI.M.P.No.262 of 2015 in S.C.No.125 of 2015 on the file of the Special Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 – cum – VII Additional Sessions Judge at Mahaboobnagar, whereby the learned Judge dismissed the application filed under Section 227 CrPC., by the petitioners herein seeking discharge from the offences alleged against them.

Heard and perused the material available on record.

Learned counsel for the petitioners submits that the Court below erroneously dismissed the application filed under Section 227 CrPC., on the ground that the High Court dismissed the application of the petitioners filed invoking Section 482 CrPC., to quash the proceedings against them, and as such, the Court below erroneously thought that the said Court has no jurisdiction to entertain an application under Section 227 CrPC.

In this context, it is necessary to extract relevant portion of the order passed by a learned single Judge of this Court in CrI.P.No.13403 of 2014, dated 19.11.2014 and the same reads as under.

Be it noted, that the complaint was registered and a charge sheet was filed. The case is pending trial. At this stage, I do not consider it appropriate to scuttle the trial. It would be appropriate for the petitioner to face the trial and seek for an acquittal, if she considers that no case is made out against her. However, it would be appropriate to direct that the presence of the petitioner at the time of trial may not be insisted upon.

Consequently, this Criminal Petition is disposed of permitting the learned Judicial Magistrate of First Class, Mahabubnagar, to proceed with the trial of P.R.C.No.63 of 2014. The trial Court however is informed that the presence of the petitioner is dispensed with for the trial. The trial Court may however direct the petitioner to appear before the trial Court on any occasion if the Court deems it just and reasonable. Miscellaneous Petitions, pending if any in this criminal petition, shall stand closed.

Learned counsel for the petitioners submits that dismissal of the application filed by the petitioners under Section 482 Cr.P.C., by the Hon'ble Court does not preclude the maintainability of the application filed under Section 227 Cr.P.C before the Court below.

This Court is of the view that there is no bar to file an application by the petitioners by invoking Section 227 CrPC., even after dismissal of the application filed by them seeking discharge under Section 482 CrPC., by this Court. However, when an application filed by the petitioners invoking Section 482 CrPC., this Court passed the order extracted as above, and it is evident from the above order that the trial Court has to proceed with the trial dispensing with the presence of the petitioner therein, the Court below cannot pass an order discharging the petitioners from the offences as alleged against them. Further, when a learned single Judge of this Court passed an order that the trial Court shall proceed with the trial, this Court has no power either to review or to pass any order against the order passed by a learned single Judge even the said order is perverse or illegal in nature. Hence, it is always left open to the petitioners to challenge the order passed by the Court below before the apex Court.

In view of the above observations, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in the revision case, shall stand closed.

JUSTICE RAJA ELANGO

17.11.2015
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