

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2433 of 2015

ORDER:

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1. This Criminal Revision Case is filed by the petitioners aggrieved by the order dated 9.9.2015 passed in CrI.M.P.No.583 of 2015 in C.C.No.31 of 2014 by the XXIII Metropolitan Magistrate, Cyberabad at Rajendranagar.

2. The 1st respondent-complainant filed the above CrI.M.P before the learned Magistrate under Rule 195 of Criminal Rules of Practice seeking to summon the entire file bearing No.5706/MP2/PIg/H/05 and Inward Register maintained by HUDA. It is stated in the affidavit that the accused in the main case had submitted the affidavits, declarations as well as lay out applications with forged signatures to the HUDA Office pertaining to his land in Sy.Nos.120 and 122 of Narsingi village. But the police could not collect the said documents, which are in possession of HUDA. Further inward registers of HUDA pertaining to 3.6.2005 is also essential document to prove that the accused submitted such documents with the forged signatures of the 1st respondent. The trial Court allowed the above CrI.M.P. Aggrieved by the same, the accused filed the present revision.

3. Heard and perused the material available on record.

4. The grievance of the petitioners is that when the complaint lodged by the de facto complainant was investigated by the investigating agency and charge sheet was filed, it is within the purview of the Public Prosecutor to prosecute the petitioners. But the above CrI.M.P. was filed by the de facto complainant seeking to summon records of HUDA to substantiate the alleged forgery, which is the subject matter of the case concerned.

5. Learned Counsel for the petitioners mainly contended that when the State is the

prosecuting agency, the de facto complainant cannot be said to have any right to file the above CrI.M.P.

6. It is pertinent to note that it is nowhere mentioned in the Criminal Procedure Code preventing the de facto complainant from filing any application of this nature so as to bring to the notice of the Court regarding availability of any evidence and documents. The legislature in its wisdom while codifying the Criminal Procedure Code specifically did not prevent any individual by way of introducing specific provisions. The Code itself does not restrict any act of the persons concerned that too, when the act of such a person is with an intention to assist the Court. Further, the fact remains that the de facto complainant is the aggrieved person in the present case. Merely because an application was filed by the aggrieved person, who is not a prosecutor, it cannot be a ground to reject such an application on that count alone. Therefore, the approach of the de facto complainant by way of filing the application in question does not suffer from any legal infirmities.

7. It is to be noted that in a criminal case, the first aggrieved person would be the de facto complainant. Even if it is assumed that the accused are falsely implicated, they are always at liberty to ventilate their grievance during the course of trial before the Court concerned. It is true that the investigating agency proceeded on the basis of the complaint lodged by the de facto complainant. But it is also to be noted that when the investigating agency failed to collect some of the important documents, it is left open to the Court to order for further investigation or if it is brought to the notice of the Court by any aggrieved person regarding availability of evidence, if any, by way of filing an application, the Courts can entertain such applications, if such material evidence lends support to the just decision of the case.

8. In the above circumstances, this Court is of the view that the order passed by the trial Court cannot be said to be prejudicial to the rights of the petitioners herein inasmuch as they are always at liberty to question the validity, authenticity, relevancy and admissibility of such documents during the course of the trial as well as during the course of the cross-examination of the witnesses concerned.

9. Accordingly, the Criminal Revision Case is dismissed.

JUSTICE RAJA ELANGO

Dated: 30.10.2015

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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