

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.357 OF 2015

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ORDER:

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The petitioner has 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 13.02.2015 passed in CrI.M.P.No.62 of 2014 in S.C.No.217 of 2012 on the file of the Court of the Assistant Sessions Judge, Narsapuram, whereby the learned Judge allowed the Memo filed on behalf of prosecution for re-examination of witnesses and further investigation and directed the prosecution to file additional charge sheet, if it is required.

In the Memo filed by the prosecution before the Court below, it is stated that on the instructions of the Superintendent of Police, West Godavari District, the memo is filed for further investigation to decide whether there is any involvement of A.2 to A.5 in the present crime. The learned Sessions Judge passed order directing the investigation officer to re-examine the witnesses and proceed with further investigation.

Heard and perused the material available on record.

The point for consideration before this Court is, after committal of the case before the Sessions Court, whether an application can be filed before the Sessions Court for further investigation, since it is a case which has to be committed by the committal Court.

This Court is of the view that it is the prerogative of the investigating agency to proceed with further investigation. There is no law envisaging that the investigating agency shall obtain permission from the Magistrate concerned. But, in view of the decisions of the apex Court, the investigating agency to file an application before the Court concerned to inform the Court that the investigating agency intends to proceed with further investigation. The question of grant or

refusal of permission for further investigation is not envisaged in the Code of Criminal Procedure (Cr.P.C.). Hence, the Memo filed on behalf of prosecution is not maintainable and as such, the order, dated 13.02.2015 in CrI.M.P.No.62 of 2014 in S.C.No.217 of 2012 is hereby set aside.

It is informed by the learned counsel for the first respondent that they have filed a protest petition before the Magistrate concerned challenging the deletion of A.2 to A.5 in the crime. If any application is pending challenging the deletion of A.2 to A.5, the Magistrate is directed to dispose of the same after hearing both the parties.

It is made clear that setting aside the order impugned does not preclude the investigating agency to inform the Magistrate, where F.I.R., is originally pending, that they intend to proceed with further investigation. The Court below is directed to dispose of S.C.No.217 of 2012 as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of copy of this order.

With the above directions, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

16.07.2015

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