

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CrI.R.C.No.434 of 2015

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JUDGMENT
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This revision is preferred challenging the docket order dated 08.01.2015 passed in CrI.M.P.No.100 of 2015 in C.C.No.319 of 2014 by the learned V Additional Judicial Magistrate of First Class, Nellore.

2. The first respondent-State filed CrI.M.P.No.100 of 2015 stating that the chief examination of P.W.1 discloses the involvement of respondents/proposed accused in the crime and therefore, it seeks to allow the prosecution to add them as an additional accused. By the order impugned, the trial Court passed the following order;

Heard APP. After considering the evidence of P.W.1 and hearing of APP, this Court finds a prima facie case against R1 to R4 also. Hence, they are added as Accused Nos.2 to 4 and accordingly, petition is allowed”.

3. The aforesaid order discloses that the learned Magistrate, after considering the evidence of P.W.1 and after hearing the Public Prosecutor, allowed the said petition for adding of A2 to A4 in the crime. The cross-examination of P.W.1 was not yet completed. Therefore, this Court finds that the learned Magistrate ought to have considered that there was sufficient evidence indicating involvement of respondents 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. Further, the learned Magistrate has not followed the procedure under Section 319 Cr.P.C. 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.

4. 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

24th June, 2015

sj