

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.418 of 2015

ORDER:

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This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.) challenging the order dated 21.01.2015 passed in CrI.R.P.No.7 of 2014 on the file of the III Additional District and Sessions Judge, Kurnool at Nandyal.

The respondent herein filed a private complaint before the Court of Judicial Magistrate of First Class, Nandyal vide C.F.R.No.4109 of 2013 against the accused stating that on 14.09.2013 at about 11.00 a.m., A2 to A5 are alleged to have abused the parents of the informant and beat them on the pretext that the daughter of A3 eloped with one Bhupal. On the same day, it is stated that the informant reached Mahanandi Police Station accompanied by her paternal uncle by name Thalari Venkateswarlu, who is the Reporter of Visalandhra news paper. At that time all the accused who were present there, abused the informant in filthy language and pointed her as responsible for the elopement of the daughter of A3. While enquiring about the elopement of the daughter of A3, the S.I. by name Surya Mouli is alleged to have beat the informant indiscriminately at the police station. On questioning about the attitude of the S.I. towards the informant, the S.I. is alleged to have abused the reporter, deleted the photographs taken by him of beating the informant, abused him in filthy language and threatened them with dire consequences, if the act of the beating is revealed. Then, the informant lodged a report before the Judicial Magistrate of First Class, Nandyal, who forwarded the same to the Station House Officer. Within few days, the informant, on the instigation of C.P.I. people, filed a representation stating that earlier she lodged a false complaint against the S.I. Again on 28.10.2013, the informant submitted that she wanted to contest the case. In view of different versions of the informant, the complaint lodged by her was dismissed. Challenging the said order, the informant filed CrI.R.P.No.7 of 2014 before the District and Sessions Judge, Kurnool. After considering various judgments and the procedure to be followed under Section 200 of Cr.P.C., the Criminal Revision Case was allowed. The order passed by the learned Judicial Magistrate of First Class, Nandyal in C.F.R.No.4109 of 2013, dated 28.10.2013 was set aside and the matter was remanded back to the learned Magistrate for disposal of the same afresh by

giving an opportunity to the informant and was directed to pass appropriate order in accordance with law, within three months from the date of receipt of the orders. Challenging the same, the present revision is filed.

It is to be noted that initially the informant is alleged to have stated that she lodged a report at the instance of the CPI activists. A private complaint under Section 200 of Cr.P.C. was filed making allegations against the S.I. of police. The learned Magistrate, without following the due process of law, forwarded the same to the Station House Officer. Thereafter, she is alleged to have filed an application stating that the allegations made in the report are on the instigation of CPI activists. Hence, the learned Magistrate dismissed the said complaint, basing on the representation made by the informant. It is to be noted that though the informant made such representation before the learned Magistrate, she herself challenged the said order by way of revision which was allowed. In **Kesari Prabhakar Rao Vs. State of Andhra Pradesh**, this Court held as under:

“Recording of reasons by the Magistrate is mandatory when the complaint is dismissed in its entirety or in part, or when cognizance of any offence alleged in the complaint is not taken by him (while taking cognizance of some other offences alleged by the complainant in the same complaint)”.

As per Section 203 of Cr.P.C. “if, after considering the statement on oath (if any) of the complainant and of the witnesses, the result of enquiry or investigation (if any) under Section 202, the Magistrate is of the opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case, he shall briefly record his reasons for so doing”.

Similarly, in **G.Pal Vijay Kumar Vs. State of Andhra Pradesh**, the learned Single Judge of this Court held as under:

“.....prejudice in fact had been caused to the complainant because he had been deprived of an opportunity to explain his case to the Magistrate, which he could have got had the Magistrate examined him on oath. The Magistrate could apply Section 203 Cr.P.C. only if after examining the complainant and the witnesses who are present in the Court, she finds no sufficient ground for proceeding with the case. Dismissal of the complaint under Section 203 Cr.P.C. without adopting procedure under Section 200 Cr.P.C. is not valid”.

In view of the above judgments, it is clear that, the Court can take the complaint on to the file only after examining the complainant and other witnesses on oath and if the Magistrate is of the opinion that there are no sufficient grounds for proceeding further, he shall dismiss the complaint by giving reasons. In the instant

case, the complainant was not given an opportunity of herself being examined on oath and also witnesses if any. Hence, this Court is of the view that the order under challenge warrants no interference. However, the learned Magistrate while taking the case on file shall look into all the material placed before him and proceed in accordance with law.

With the above direction, the criminal revision case is disposed of.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

19.03.2015

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