

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Crl.R.C.Nos. 1831, 1832 & 1833 of 2013

COMMON JUDGMENT:

These three revision cases are disposed of by this common judgment in as much as all of them arise out of the same crime and same sessions case i.e., S.C.No.97 of 2013 on the file of III Additional District & Sessions Judge, Ranga Reddy district at L.B.Nagar, Hyderabad.

2. The petitioners herein are A-3, A-4 and A-5 in the above Sessions Case. The offences alleged against them are punishable under Sec. 302, 342, 201 read with Sec.34 and Sec.120-B of Indian Penal Code. The petitioners/accused have filed three different petitions before the Court below under Sec. 227 of Cr.P.C., for discharging them, on the ground that there is no *prima facie* case against them, and the material available on record is not sufficient for proving the charges alleged against them. The learned trial Judge has dismissed three petitions filed by the petitioners herein holding that the involvement of the petitioners/accused in the alleged crime can be find out after completion of the trial only, and it is too early to come to a conclusion that there is no *prima facie* case against them. Consequently, the present three revisions cases are filed before this Court.

3. Heard the learned counsel for the petitioners/accused, learned counsel appearing for the *de facto* complainant, learned Public Prosecutor, and considered the material available on record.

4. Learned counsel for the petitioners/accused submits that the entire prosecution case is based on circumstantial evidence and except there being the alleged and so called confessions said to have been made by A-1 implicating the other accused, absolutely there is no evidence whatsoever to establish any kind of nexus in between the crime and the criminals. The learned counsel further submits that the investigation agency is failed to place on record sufficient evidence even to hold *prima facie* that the petitioners/accused are in any way took part in the

conspiracy said to have been hatched by A-1 and A-2 and executed by all the accused.

5. The learned counsel for the *de facto* complainant, on the other hand, submits that this is a case of deep seated conspiracy, hatched by the non-petitioners/accused, and the petitioners herein being the relations, have facilitated the non-petitioners/accused in executing the nefarious conspiracy for eliminating the deceased, who was a young-man, and working as a Software Engineer in Bangalore. It is further submitted that at the stage of framing of charges, a thorough enquiry cannot be conducted, suffice it to prove the other contents of the complaint, and the charge sheet and the material placed on record are sufficient to make out a justifiable case to proceed with the trial against the accused, and the culpability or otherwise of the petitioners/accused can be determined only after completion of a full-fledged trial before the trial Court.

6. The allegations in brief are that the Petitioner/A-4 is a girl, aged about 21 years and said to be a Student. The deceased – Satish Kumar was working as a Software Engineer in Bangalore. Both are alleged to have developed a friendship, which ultimately developed into a close intimacy and love affair. This was not to the liking of the parents of the girl/A-4. A-1 is the father, A-5 is the mother of the girl/A-4, A-2 is said to be the friend of A-1, and A-3 is said to be the first cousin of the girl/A4. The further allegation is that in pursuance to the conspiracy by all the accused, the deceased was called by A-4 by phone, and when he came to a convenient spot at Ameerpet, Hyderabad, A-3 and A-5 have informed the same to the other accused, who have forcibly took away the deceased in a car to a place at Medak district, and during the transit, they are alleged to have throttled the deceased to death, and in a hillock area they burnt the dead-body of the deceased with the help of an inflammable material, and thereafter again took the dead-body to a canal and dumped it there. The *de facto* complainant, unaware of all these things, has

lodged a complaint with the police on 04-02-2012 stating that his son is missing. At that time, no suspicion was expressed against anybody, but only during the course of investigation by the police, it came to light about the conspiracy of the accused, which resulted in the death of the deceased. A-1 was arrested by the police and at his confession, which lead to the entire story of the prosecution, being culled out. It is alleged that A-1 and A-2 have confessed that in pursuance to their conspiracy, they kidnapped the deceased along with A-3 and committed the crime. The admissibility or otherwise of the confessions made by the accused while in police custody cannot be adjudicated at this stage.

7. As rightly submitted by the learned counsel for the petitioners/accused, the case of the prosecution is based on circumstantial evidence, and the probative value of the such evidence need to be carefully and cautiously scrutinised by the trial Court. That is possible when a full-fledged trial takes place. When conspiracy is alleged, not more than that what is alleged in the charge sheet can be placed before the Court for proceeding with the trial. Only during the course of trial, the prosecution has to prove the alleged conspiracy and its execution, which will be determined by the trial Court. The Court below has appreciated all the aspects in proper perspective and rightly dismissed the petitions of the accused to discharge them at threshold. Upon perusing the material on record, I see no reason to take a different view other than the one taken by the trial Court.

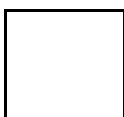
8. In view of the above, I find no merit in the present revision case and they are liable to be dismissed. However, since A-3 and A-4 are young and students, and A-5 is mother of A-4 girl, I feel it would be just and proper to direct the trial Court to proceed with the trial, without insisting the presence of A-3, A-4 and A-5 unless their presence is required for a specific purpose.

9. With the above observations, the Revision Cases are dismissed. The observations and findings made in this common

judgment are only for the purpose of disposal of the present revisions, and they shall not have any bearing on the trial and final disposal of the main case. As a sequel, pending miscellaneous petitions, if any, stand closed. No costs.

M.S.K. JAISWAL, J

Date: 31.08.2015

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THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

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