

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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CRIMINAL REVISION CASE No.419 of 2015

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ORDER:

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The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., aggrieved by the order dated 28.01.2015 passed in CrI.M.P.CFR No.175 of 2015 in C.C.No.507 of 2014 on the file of the Judicial Magistrate of First Class, Badvel, Kadapa District, wherein and whereunder a petition filed by the informant for further investigation by the police was returned.

The facts in issue are as under:

A private complaint came to be filed under Section 200 Cr.P.C. which was referred to the police under Section 156 (3) Cr.P.C. On the basis of the said reference a case in Crime No. 85 of 2014 of Badvel Urban Police Station came to be registered for the offences punishable under Sections 323, 420 and 506 read with 34 IPC and Section 3 of the Dowry Prohibition Act, 1961. Police investigated into the matter and filed charge sheet. On receipt of notice, the petitioner herein, who is the informant filed objections to the charge sheet under Section 173 Cr.P.C. seeking further investigation of the matter by the police. According to her, the investigating agency has not brought on record certain facts which go to the root of the matter. The said application was rejected. Challenging the same the present revision is filed.

Though the present revision is filed challenging the very order, but the learned counsel for the petitioner submits that the wording in prayer portion was wrongly made and his request was only to treat the said application as a protest petition.

In ***Vinay Tyagi v. Irshad Ali alias Deepak and Others*** the Apex Court

held as under:

"'Further investigation' is where the Investigating Officer obtains further oral or documentary evidence after the final report has been filed before the Court in terms of Section 173(8). This power is vested with the Executive. It is the continuation of a previous investigation and, therefore, is understood and described as a 'further investigation'. Scope of such investigation is restricted to the discovery of further oral and documentary evidence. Its purpose is to bring the true facts before the Court even if they are discovered at a subsequent stage to the primary investigation. It is commonly described as 'supplementary report'. 'Supplementary report' would be the correct expression as the subsequent investigation is meant and intended to supplement the primary investigation conducted by the empowered police officer. Another significant feature of further investigation is that it does not have the effect of wiping out directly or impliedly the initial investigation conducted by the investigating agency. This is a kind of continuation of the previous investigation. The basis is discovery of fresh evidence are in continuation of the same offence and chain of events relating to the same occurrence are incidental thereto. In other words, it has to be understood in complete contradistinction to a 'reinvestigation' 'fresh' or 'de novo' investigation." It is admitted fact that the investigation is purely within the discretion of the Investigating Officer and no Court can interfere into that aspect. Here, the final report was submitted by the Investigating officer. In the circumstances, I direct the investigating officer to give further report at the earliest within three months and submit a supplementary report at the earliest."

Having regard to the circumstances stated above and in view of the judgment of the Apex Court referred to above, the request of the petitioner can be considered.

Accordingly, the Criminal Revision Case is disposed of by directing the learned Magistrate to treat the petition filed by the informant as a protest petition and proceed in accordance with law.

Miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

JUSTICE C. PRAVEEN KUMAR

19.03.2015

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