

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.352 OF 2015

ORDER:

This Criminal Revision Case is filed aggrieved by the order, dated 19.01.2015, passed in CrI.M.P. No.70 of 2015 in CC No.777 of 2008 by the X Metropolitan Magistrate, Cyberabad at Malkajgiri, Ranga Reddy District.

Heard and perused the material available on record.

The 2nd respondent - de facto complainant is the wife of the 1st petitioner – A1. A2 is the brother and A3 is a friend of A1. The de facto complainant lodged a private complaint in CC No.777 of 2008 against the petitioners for the offences under Sections 498-A and 506 IPC. The case was referred to the police Malkajgiri and after completion of investigation, the police filed charge sheet deleting the names of A2 and A3. The prosecution filed an application under Section 319 Cr.P.C. before the Court below to add the petitioners 2 and 3 also as accused Nos.2 and 3. The learned Magistrate allowed the application and added the petitioners 2 and 3 as A2 and A3 in the case. Challenging the said order, the present revision case is filed.

Heard and perused the material available on record.

Learned counsel for the petitioners submitted that the order of the trial Court is contrary to law, that the trial Court ought to have seen that after thorough enquiry about the antecedents of the petitioners 2 and 3, the investigating officer has deleted the names of the petitioners 2 and 3. He further submitted that there is no material against the petitioners 2 and 3 to show that they also involved in the crime.

As seen from the order of the trial Court it appears that after chief examination of PW.1 only, the trial Judge had added the petitioners 2 and 3 as A2 and A3. The trial Court is always at liberty to add persons as additional accused invoking the provisions under Section 319 Cr.P.C. But in the present case, the petitioners 2 and 3 were included as accused Nos.2 and 3 basing on the chief examination of PW.1 only, which is not in accordance with law. It is to be noted here that the evidence means not only the chief examination of the witnesses, but also the answers elicited during the course of cross-examination. Further, except the chief examination of PW.1, there is no other evidence on record to connect the petitioners 2 and 3 with the present case. Hence, the order impugned is not sustainable and the same is liable to be set aside.

Accordingly, the Criminal Revision Case is allowed setting aside the order, 19.01.2015, passed in CrI.M.P. No.70 of 2015 in CC No.777 of 2008 by the X Metropolitan Magistrate, Cyberabad at Malkajgiri, Ranga Reddy District. However, after examination of the witnesses, if the petitioners 2 and 3 appear to have committed the offence along with A1, the trial Court is at liberty to proceed against them in accordance with law.

Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

August 24, 2015.
KTL