

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2867 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.) being aggrieved by the order dated 24.08.2015 passed in CrI.M.P.No.1019 of 2015 in C.C.No.353 of 2014 on the file of the IX Special Magistrate, Hasthinapuram, L.B.Nagar, Hyderabad, whereby the learned Judge dismissed the petition filed by the petitioner/*de facto* complainant seeking to return the charge sheet directing the police to re-investigate the matter and file the charge sheet in accordance with law.

Heard learned counsel for the petitioner/*de facto* complainant and the learned Public Prosecutor and perused the material available on record.

Learned counsel for the petitioner/complainant submits that even though there is specific allegation against the accused for the offence under Section 354 IPC, the investigating agency without examining the witnesses cited by the complainant, dropped the charge under Section 354 IPC, which is illegal and not permissible in law. He further submits that before dropping the offence under Section 354 IPC, the petitioner/complainant was not given any notice under Section 91 CrPC. He further submits that the reasoning given by the Court below that the cognizance is already taken and charge sheet is also filed and as such, the protest petition cannot be accepted at this stage, is erroneous in law. Hence, he prays this Court to set aside the order impugned and return the charge sheet to the police, and further direct the police to investigate further and to file charge sheet in accordance with law.

This Court, on hearing the learned counsel and also on perusing the order impugned, is of the view that an opportunity may be given to the petitioner/complainant. Hence, the petitioner/complainant is directed to file a fresh complaint under Section 200 CrPC., stating the defects in the charge sheet and also stating the allegations with regard to the offence under Section 354 IPC specifically, and also the names of the witnesses concerned, before the Court below, where the present C.C., is pending, and on such complaint being filed, the Court below is directed to take the complaint on its file and

proceed in accordance with law and decide the issue. Further, till taking a decision on the basis of the complaint filed by the petitioner herein, the Court below is directed not to proceed with C.C.No.353 of 2014.

With the above directions, the Criminal Revision Case is accordingly disposed of. Consequently, the miscellaneous petitions pending in this petition, if any, shall stand closed.

JUSTICE RAJA ELANGO

03.12.2015

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