

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2448 of 2015

ORDER:

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This Criminal Revision Case is filed by the petitioners seeking to set aside the order dated 21.9.2015 passed in CrI.M.P.No.50 of 2015 in S.C.No.379 of 2014 by the IV Additional District and Sessions Judge, Kurnool.

The brief facts of the case are as follows:

The petitioners, who are A.1, A.5 and A.8 to A.10 are facing trial for the offences under Sections 148, 326, 307, 302, 427 r/w 149 I.P.C before the trial Court. It is the case of the petitioners that the prosecution alleges that on 03.05.2013 at 7.00 a.m, the S.I of Krishnagiri Police Station arrested A.1, A.5 and A.7 to A.13 and in pursuance of their confession, weapons were seized at 12.30 p.m. But, the petitioners had definite information that at the time of alleged arrest and seizure, the S.I of Krishnagiri Police Station was in police station and carried his duties and the said facts are mentioned in General Diary of Krishnagiri Police Station. Hence, they filed the above CrI.M.P under Section 91 Cr.P.C to call for the General Diary Entry from Krishnagiri Police Station, Kurnool District, for the month of May, 2013.

The Court below, through the impugned order, dismissed the petition with liberty to the petitioners to file an application at an appropriate time. The learned trial Judge observed in the impugned order that only P.Ws.1 and 2 were examined in this case and that nothing was brought on record showing that the S.I of Police, Krishnagiri Police Station, was performing duties at police station itself and not present at the place of arrest of the petitioners/accused and therefore, summoning of the General Diary was not necessary.

This Court heard the arguments and perused the records.

The learned counsel for the petitioners submitted that if the

general diary is not called for, there is every possibility of tempering the records concerned and that moving an application by the petitioners subsequent to the examination of the witnesses may cause prejudice to the defence of the petitioners.

Having regard to the facts and circumstances of this case, this Court is of the view that the revision can be disposed of with the following directions:

The learned trial Judge shall direct the authority concerned of Krishnagiri Police Station to keep the General Diary pertaining to the date on which the S.I of Police, Krishnagiri Police Station was in police station, as alleged by the petitioners, in safe custody. The petitioners are at liberty to move a fresh application, if so desire, to call for the said General Diary, after examination of the relevant witnesses. On filing such application, the trial Court shall consider the same and pass appropriate orders at an appropriate time.

Accordingly, the Criminal Revision Case is disposed of. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 27.10.2015
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