

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

-
CrI.R.C.No. 1214 of 2013

JUDGMENT:

-

This revision case is filed against the order dt.22.04.2013, passed by the Judicial Magistrate of First Class, Pulivendla in CrI.M.P.No.1100 of 2013 in Cr.No.96 of 2013 of Pulivendla Police Station.

2. The *de facto* complainant-C. Prakash Reddy is said to have witnessed the incident in which the petitioner/accused and another are alleged to have killed his mother on 13.03.2013 at about 5.30 p.m. at Pulivendla. On the basis of the said complaint lodged by the *de facto* complainant, the police registered the above crime, arrested the petitioner/A1 and remanded him to judicial custody. When the matter is pending for investigation, the petitioner/A1 filed the petition in hand under Section 91 Cr.P.C., to issue summons to the proprietor of Future Tech Computer Institution, Kadapa to produce the hard disc pertaining to the date 13.03.2013 from 9.00 a.m. to 9.00 p.m. to show that the *de facto* complainant was present and undergoing training in the said institution at the time of incident, during which he was alleged to be present in the scene of offence at Pulivendla. The said petition was dismissed by the learned Magistrate by the impugned order. Hence, the present revision.

3. Heard the learned counsel for the petitioner/accused, learned Public Prosecutor and considered the material available on record.

4. Filing of a petition by the petitioner/accused summoning to produce any piece of material evidence or the hard-disc, during the course of investigation is not permitted. Only after the charge sheet is filed, in his defence, the petitioner/accused can seek appropriate

remedy of getting evidence or documents. But at the stage of investigation, it is not proper to summon to produce a particular piece of evidence. That apart, the evidence that is sought to be summoned is a hard-disc said to contain the movements of the *de facto* complainant at a different place i.e., Kadapa on the date of incident i.e., 13.3.2013 from 9.00 a.m. to 9.00 p.m; whereas the incident is said to have taken place at about 05.30 p.m. on 13.03.2013 at Basireddy Palli village, Pulvendula Mandal, Kadapa district.

5. It is settled law that when a prayer is made for the production of a document or a piece of evidence, the stage of the case, the necessity or desirability of that particular piece of evidence, is to be borne in mind. The entitlement of the accused under Sec. 91 Cr.P.C. would ordinarily not come till the stage of defence. Therefore, the trial Court has rightly dismissed the petition.

6. In view of the above, I find no merit in the present revision and the same is liable to be dismissed. However, it is made clear that it is always open to the petitioner/accused to obtain the attendance record from the Institute/Organisation concerned and file the same during the course of trial in his defence to prove that the *de facto* complainant was not present at the place of incident, but in fact, he was in Kadapa town, and undergoing a training in Future Tech Systems campus.

7. With the above observations, the Revision Case is dismissed. As a sequel, pending miscellaneous petitions, if any, stand closed. No costs.

M.S.K. JAISWAL, J

Date: 26.08.2015

Kv



Crl.R.C.No. 1214 of 2013

JUDGMENT

26.08.2015

Kv