

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.423 of 2015

ORDER:

-

Aggrieved by an order dated 22.12.2014 passed in CrI.M.P.No.3059 of 2014 in C.C.No.141 of 2014 on the file of the Special Judicial First Class Magistrate for Prohibition and Excise, Guntur, the present revision is filed under Sections 397 and 401 Cr.P.C. wherein and whereunder an application filed under Section 239 Cr.P.C. seeking discharge was dismissed.

A charge sheet came to be filed against the petitioner/accused for the offences punishable under Sections 452, 506 and 497 IPC. The gist of the allegations in the charge sheet is as under:

The petitioner developed illicit intimacy with the wife of the informant for the last two years. It is stated that on 13.02.2014 at about 12.20 a.m. when the informant came to his house and found the chappals of the petitioner on suspicious he peeped into the bed room from the window and found his wife and the petitioner on the bed, when the informant called his wife she opened the doors after both wearing cloths. When the informant asked the petitioner about their attitude, the petitioner is alleged to have thrown him, beat with hands and also threatened him with dire consequences. Basing on these allegations the above charge sheet came to be filed.

Learned counsel for the petitioner mainly submits that the incident took place on 13.02.2014 and the report came to be lodged on 18.02.2014. Absolutely there is no explanation for the delay in lodging the report. He submits that the informant was due some amount to the petitioner and that the present case came to be lodged only with a view to avoid payment. He further submits that the averments in the charge sheet if read together shown the conduct of the informant is quite abnormal.

Learned Public Prosecutor opposed the revision.

The argument of the learned counsel for the petitioner is that the delay of five days is not properly explained by the prosecution. It is to be noted that whether the delay in lodging of report is fatal to the case of the prosecution is a matter which has

to be gone into during the course of trial. At this stage, the Court cannot discharge the accused on the ground of delay in lodging the report. Apart from that the Apex Court in ***Omprakash vs. State of Haryana*** held as under:

“It is settled in law that mere delay in lodging the first information report cannot by itself be regarded as fatal to the prosecution case. True it is, the court has a duty to take notice of the delay and examine the same in the backdrop of the factual score, whether there has been any acceptable explanation offered by the prosecution and whether the same deserves acceptation being satisfactory, but when delay is satisfactorily explained, no adverse inference is to be drawn.

Insofar as the defence taken by the petitioner that he has lent some money to the informant, no material is placed before the Court to show the same. If the petitioner has lent some money to the informant, definitely he would have placed certain documents on record. Having regard to the nature of allegations made and in the absence of any material to show that the petitioner has advanced some money to the informant, it cannot be said that the present case came to be initiated only with a view to avoid payment. As stated earlier, no documents are filed before the Court to show that the informant was due some amount to the petitioner.

Coming to the third argument of the learned counsel for the petitioner that the conduct of the informant is improper, the same in my view cannot be accepted. As stated above, when the informant came to his house, he found the chappals of the petitioner and on suspicious he is alleged to have peeped to the bed room from the window and found his wife and the petitioner on the bed. When the informant called his wife she opened the doors. When the informant asked the petitioner about their attitude, the petitioner is alleged to have thrown him down, beat with hands and also threatened him with dire consequences. The above conduct of the informant in my view cannot be said to be abnormal. For the aforesaid reasons, I see no reasons to interfere with the order passed by the trial Court.

Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.03.2015

gkv