

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.3626 of 2016

ORDER:

This Criminal Petition is filed by the petitioners-accused, under Section 482 Cr.P.C., seeking to quash order, dated 08.03.2016, in CrI.M.P. No.305 of 2016 in CC No.47 of 2010 passed by the Judicial Magistrate of First Class, Sathyavedu, Chittoor District.

Heard and perused the material available on record.

The respondent filed the impugned application before the Court below to summon the original documents i.e. detailed report submitted by the enquiry committee and other documents, from the office of the Project Director, DWMA, Chittoor, and permit to mark the same on behalf of the prosecution. The petitioners filed counter stating that there is no reference about the documents sought to be marked by the respondent either in the investigation or in the charge sheet filed by the investigating officer, and only to fill up the latches in the prosecution case, the application was filed. The Court below, after perusing the record and also after taking into consideration the counter filed by the petitioners, allowed the said application, vide order impugned, by observing as follows:

“The official witnesses who are part of enquiry committee deposed before this Court that they submitted original report and other documents collected during enquiry to the Project Director, D.W.M.A., however, it appears that same are not collected by the Investigating Officer in this case. These documents are essential in this case and they play vital role in deciding this case. It is settled law that defects or wrongs committed by the Investigating Officer shall not affect the prosecution case therefore this Court is of the opinion that it is just and proper to issue summons for cause production of these documents and to mark the same in this case. Hence, this petition has merits and deserves to be allowed.”

After perusing the order passed by the Court below, this Court is of the view that the learned Magistrate has rightly allowed the application filed by the respondent and the reasons assigned by the learned Magistrate are just and reasonable; and the order under

challenge does not suffer from any serious infirmity and hence, this Court is not inclined to interfere with the same and therefore, the criminal petition is liable to be dismissed. However, in view of the submission of the learned counsel for the petitioners that the case is proceeding for examination of the investigating officer, the petitioners are at liberty to cross-examine the investigating officer with regard to the documents sought to be marked by the prosecution and also the witnesses, who produce the documents mentioned in the impugned application, before the Court below, to the extent of questioning about the authenticity, admissibility and relevancy of the said documents.

With the above observations, the Criminal Petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

March 17, 2016.
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