

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.3482 OF 2006

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the inaction of the respondents 1 and 2 in taking action against the 3rd respondent in spite of written representation, dated 07.01.2006, submitted by the petitioner, as illegal and arbitrary and consequently, direct the respondents 1 and 2 to arrest the 3rd respondent and produce before the Additional Judicial Magistrate of First Class, Narasapur, in pursuance of the written representation, dated 07.01.2006 made by the petitioner.

When the matter is taken up for hearing, learned Senior Counsel appearing for the petitioner submitted that subsequent to filing of this writ petition, the Court concerned has ordered proclamation, informing the 3rd respondent as proclaimed offender and hence, there is nothing to adjudicate in this writ petition. She further submitted that during pendency of the present writ petition, basing on the complaint given by the petitioner herein, C.C.No.496 of 2004 was filed against the 3rd respondent - A1, and A2 to A5 for the offences punishable under Sections 376, 420, 498-A IPC and since the 3rd respondent was absconding, the case against him was separated and thereafter, the petitioner filed another complaint against the 3rd respondent, and the same was registered as C.C.No.97 of 2006 for the offences punishable under sections 420 and 417 IPC and accused in CC No.496 of 2004 filed CrI.M.P.No.499 of 2009 seeking to club both the cases and conduct common trial and the trial Court dismissed the said petition and challenging the said dismissal order, the accused in CC No.496 of 2004 approached this Court and filed CrI.R.C. No.1461 of 2011 and this Court

vide order, dated 07.09.2012, allowed the said revision case. Learned counsel further submitted that in view of the absence of the 3rd respondent, who is A1 in CC No.97 of 2006, the trial Court could not able to proceed further in view of the order passed by this Court to conduct common trial in both CC Nos.496 of 2004 and 97 of 2006.

A perusal of the record discloses that this Court by order, dated 07.09.2012, directed the Court concerned to conduct common trial in CC Nos.496 of 2004 and 97 of 2006. In view of the above submissions of the learned Senior Counsel, this Court is inclined to pass the following order:

The petitioner herein is directed to file an application before the Court concerned, where CC Nos.496 of 2004 and 97 of 2006 are pending, to separate the CC No.97 of 2006 in which the 3rd respondent is A1 and to proceed with CC No.496 of 2004 against A2 to A5. On filing of such application by the petitioner herein, the Court concerned is directed to proceed with the trial in CC No.496 of 2004 against A2 to A5 and dispose of the same in accordance with law.

With the above directions, the Writ Petition is disposed of. Miscellaneous Petitions, pending if any, shall stand closed.

August 09, 2016.
KTL

RAJA ELANGO, J

