

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.2757 OF 2015

-
ORDER:

-
This Criminal Revision Case is filed by the complainant challenging the order dated 4.11.2015 passed by the III Additional Judicial Magistrate of First Class, Rajahmundry in dismissing CrI.M.P.No.3237 of 2014 in Crime No.187 of 2013 filed by the complainant under Section 173 Cr.P.C. to take cognizance of offence against the accused-respondents 2 to 11 herein.

The brief facts of the case are that the complainant-petitioner herein filed a complaint before the police and since they did not take any action, he approached the Court below by way of a petition and later police registered a case and filed a charge sheet before the Court against A.1 for the offences under Sections 465, 468, 471 and 506. As far as A.2 to A.10 are concerned, the police deleted their names on the ground that no prima facie case is made out against them and also deleted Sections 307, 447 r/w 149 IPC. Being aggrieved by the deletion of names of A.2 to A.10 and deletion of Sections 307, 447 r/w 149 IPC, the petitioner preferred a protest petition before the Court below. The learned Magistrate followed the procedure and after examining three witnesses passed the impugned order dismissing the petition holding that there are no sufficient grounds for proceeding against A.2 to A.10. Challenging the same the present revision is preferred by the petitioner.

It is the main contention of the learned counsel for the petitioner that the police did not issue any notice to the petitioner as contemplated under law while deleting the names of A.2 to A.10 and that the police have not taken permission of the Court

while deleting the names of A.2 to A.10 and deletion of Section 307 IPC. Further the learned Magistrate failed to appreciate the fact that the police have not followed the procedure as contemplated under Section 170(3) Cr.P.C. in submitting the final report.

Heard and perused the material available on record.

The main grievance of the petitioner is against the person, who is already charge sheeted and facing trial, who is the beneficiary, according to the petitioner, but not charge sheeted for the offence under Section 307 IPC. The learned Magistrate was of the view that the witnesses examined in support of the protest petition also did not disclose anything to attract an offence under Section 307 IPC.

To attract an offence under Section 307 IPC, there should be an act by the accused persons with an intention to commit murder. The entire reading of the sworn statement of the complainant-petitioner herein and the other witnesses examined before the Court does not disclose any such act, which necessitates the trial Court to take cognizance for an offence under Section 307 IPC. Even though it is alleged that the accused-respondents herein were present with knives and weapons and threatened the complainant, it is not specifically stated by any of the witnesses with specific overt acts and also the words that were uttered by the accused persons to attract an offence under Section 506 IPC. The allegations are *omni bus* in nature and previously, the investigation officer was also of the opinion that no case is made out. Hence, the learned trial judge was of the view that a reading of the final report and also the statements of witnesses recorded by him does not necessitate him to take cognizance for an offence under Section 307 IPC and

accordingly, dismissed CrI.M.P.No.3237 of 2014. In view of the above reasons, this Court is not inclined to interfere with the impugned order passed by the learned Magistrate.

The Criminal Revision Case fails and the same is accordingly dismissed.

Consequently, pending miscellaneous petitions shall stand closed.

JUSTICE RAJA ELANGO

15.06.2016

Tsr