

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE NO.2381 OF 2015

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. challenging the order, dated 12-08-2015 in M.C.No.5 of 2008 on the file of the Sub-Divisional Magistrate, Visakhapatnam.

2. Heard Sri.Ch.Samson Babu, learned counsel for the petitioner and Sri K.Chidambaram, learned counsel for the 2nd respondent.

3. The contention of the learned counsel for the petitioner is that the order passed by the Sub-Divisional Magistrate, Visakhapatnam is not sustainable either in law or on facts. He further submitted that the Sub-Divisional Magistrate, Visakhapatnam, ought not to have given a direction to the District Registrar to renew the societies.

4. Per contra, learned counsel for the 2nd respondent submitted that seizing of the books by the police in pursuance of the order passed by the Sub-Divisional Magistrate, Visakhapatnam, itself is not legally sustainable. He further submitted that the order of the Sub-Divisional Magistrate, Visakhapatnam, directing the District Registrar to renew the societies is sustainable either in law or on facts.

5. The facts, leading to filing of the present revision are briefly as follows: Dr.Killari Anand Paul and Sri Killari David Raju, who are 'A' and 'B' party respondents in the above M.C. are own brothers. 'A' and 'B' party respondents along with some other persons registered two societies under the Societies Registration Act under the name and style of 'Ancient Pattern Pent Coastal Church' and 'Gospel to

Unreached Millions'. The first society was registered in the year 1989, whereas the second society was registered in the year 1993. Unfortunately disputes arose between the own brothers with regard to administration and management of the societies. The Station House Office, III Town Police Station, Visakhapatnam, suo motu registered a case in Cr.No.735 of 2008. Basing on the F.I.R., the Sub-Divisional Magistrate, Visakhapatnam, initiated proceedings under Section 145 Cr.P.C. and numbered it as above M.C. Unfortunately, Sri Killari David Raju ('B' party respondent) was killed on 31-01-2010. After the death of the said Killari David Raju, the Sub-Divisional Magistrate, Visakhapatnam, passed the order directing the police to handover the books seized by them to the District Registrar, Visakhapatnam. He further directed the District Registrar to renew the societies in favour of the original members i.e., 'A' party respondent Killari Anand Paul and his executive body members. During the pendency of the above M.C., the said Killari David Raju filed O.P.Nos.1053 and 1124 of 2007 under Section 23 of the Andhra Pradesh Societies Registration Act, 2001. For one reason or the other, the said Killari David Raju could not prosecute the matter and therefore, the District Court, dismissed the said O.Ps. Thereafter, restoration petitions were filed to restore the above O.Ps., and the same were also dismissed. Thereafter, the revision was filed and the same is pending.

6. The crucial question that falls for consideration is whether the Sub-Divisional Magistrate, Visakhapatnam, is entitled to initiate proceedings under Section 145 Cr.P.C. with regard to management of the societies?

7. Both counsel with one voice submitted that the Sub-Divisional Magistrate, Visakhapatnam, has no right whatsoever to initiate proceedings under Section 145 Cr.P.C.

8. A perusal of Section 145 Cr.P.C. clearly demonstrates that the Sub-Divisional Magistrate, Visakhapatnam, is entitled to initiate proceedings, if there is any dispute with regard to the immovable property or water rights. In the instant case, the issue relates to the administration and management of the societies referred to above. By any stretch of imagination, it cannot be presumed that the Sub-Divisional Magistrate, Visakhapatnam, has a right to initiate proceedings under Section 145 Cr.P.C. Therefore, initiation of proceedings under Section 145 Cr.P.C., itself is void and *ab initio*.

9. Both counsel submitted that during the pendency of the above M.C., police seized the books from the societies in pursuance of the order passed by the Sub-Divisional Magistrate, Visakhapatnam.

10. It appears that at the time of passing the final order, the Sub-Divisional Magistrate, Visakhapatnam, might have thought that initiation of proceedings itself is void and *ab initio*. Therefore, the Sub-Divisional Magistrate, Visakhapatnam, directed the police to handover the societies' books to the District Registrar and further directed the District Registrar to renew the societies in favour of 'A' party from whom the books were seized.

11. Aggrieved by the orders of the Sub-Divisional Magistrate, Visakhapatnam, petitioner herein, who is the wife of Killari David Raju and who is not a party to the above M.C. filed the present revision. It is needless to say that any

aggrieved party can file a revision even without there being a party to the original proceedings. Absolutely, there is no material on record to establish that the petitioner herein was one of the governing body members of the societies. Of course, she is one of the members of the societies.

12. A perusal of the record reveals that 'A' party was managing the societies as on the date of initiation of proceedings under Section 145 Cr.P.C. A perusal of the record further reveals that the Sub-Divisional Magistrate, Visakhapatnam, after realizing the mistake committed by his predecessor in office, rectified the mistake in the form of final order. The order passed by the Sub-Divisional Magistrate, Visakhapatnam, is in accordance with law. In view of pendency of revision, this Court is not inclined to express any opinion touching the merits of the main case with regard to administration and management of the societies. There is no illegality, irregularity or impropriety in the order passed by the Sub-Divisional Magistrate, Visakhapatnam, which warrants interference by this Court by exercising the revisional jurisdiction under Section 397 C.P.C.

13. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending, in this revision shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 21.11.2016.

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