

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.2061 of 2016

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ORDER:
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This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioners/accused Nos.1 to 3 seeking to quash the proceedings in S.T.C. No.3 of 2011 on the file of the Additional Judicial I Class Magistrate, Ramachandrapuram, East Godavari District.

Heard the learned counsel for the petitioners/accused and the learned Public Prosecutor and perused the material available on record.

The challenge before this Court is that the case is pending from the year 2011 for the offence punishable under Section 9(1) of A.P. Gaming Act. Admittedly, ever since filing of the charge-sheet, even though prosecution cited three persons as witnesses those who are Police Constables, the Prosecution failed to examine the witnesses for the past five years. At one point of time the trial Court has also closed the prosecution and posted the case for Section 313 Cr.P.C. examination. After the closure of the prosecution, a petition was filed before the Court on 07-09-2015 to reopen the petition which is also pending before the Court and the Court has not passed any orders till date.

It is the case of the petitioners that in a summary trial

procedures that too for an offence which is punishable with six months imprisonment and Rs.300/- fine, the dragging of the proceedings for four years amounts to abuse of process and also it is the case of the petitioners that when no witnesses examined by the prosecution, the question of examination of the accused under Section 313 Cr.P.C. does not arise. Section 313 Cr.P.C. speaks about the examination of the accused if any incriminating circumstances deposed by the witnesses concerned. When the trial Court closed the prosecution without examining any person, there is no need of posting the case for examination of the accused under Section 313 Cr.P.C. and the Court should have acquitted the accused, since there is no incriminating circumstances deposed before the concerned Court.

This Court perused the records and heard the arguments.

This Court is also of the view that when none of the witnesses are examined before the Court and the Court closed the prosecution, there is no need for examination of the accused and in the name of examination of the accused, there is no need for adjourning the case. Hence, after closing the prosecution, the petitioners are entitled for acquittal. But, instead of acquitting the accused, the learned trial Judge adjudicated the case, which necessitated the prosecution to file a petition to reopen the case also. Considering the said fact that the matter is pending for more than 5 years and also no witnesses deposed before the Court, this Court is of the view

that this is a case which is liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings in S.T.C. No.3 of 2011 on the file of the Additional Judicial I Class Magistrate, Ramachandrapuram, East Godavari District, are hereby quashed.

Miscellaneous Petitions filed in this Criminal Petition, if any, shall stand closed.

RAJA ELANGO, J.

19-02-2016

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