

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.508 OF 2016

ORDER:

The present Criminal Revision is directed against an order dated 07.01.2016 passed in Crl.M.P. No.536 of 2015 in S.C. No.48 of 2002 on the file of the I Additional Sessions Judge at Vizianagaram.

The brief facts of the case are as under :

The State represented by Inspector of Police, Cheepurpalli, laid a charge-sheet against 35 accused in Crime No.49 of 2001 of Budarayavalasa Police Station for the offences punishable under Sections 148, 302, 307, 324, 341, 452 and 427 read with Section 149 IPC. The case was committed to the Court of Sessions. Initially the trial court framed as many as 40 charges and subsequently the case was made over to the court of I Additional Sessions Judge, Vizianagaram. When the case was coming up for trial, the prosecution filed Crl.M.P. No.370 of 2004 to frame additional charges, which was dismissed. Aggrieved by the same, the prosecution preferred Crl.R.C. 254 of 2005, which was disposed of by this Court on 12.11.2010, directing the trial court to frame charges afresh after hearing both sides. In compliance with the orders of this Court, 20 charges were framed

afresh against the accused on 18.06.2011. Not being satisfied with the framing of the charges, the prosecution filed Crl.M.P. No.273 of 2012 requesting the trial court to frame some additional charges, but the same was rejected. Aggrieved by the same, the petitioner herein who is the wife of the deceased filed Crl.R.C. No.307 of 2013 before this Court. After hearing the rival arguments, this Hon'ble Court by its order dated 29.06.2015 dismissed the same holding as under :

“A perusal of the record clearly shows that as many as ‘20’ charges were framed against the accused and all the accused have been charged with different offences including the offence punishable under Section 149 IPC. There were also charges with regard to specific overt acts in so far as all the accused are concerned. What is noticed is that, after framing the charges, numbering to ‘20’, only an extract thereof was made, making them into ‘6’ charges and all the accused were put their signatures therein. The contention of the learned counsel for the petitioner is that it amounts to there only being ‘6’ charges, but not ‘20’ charges. The said contention is devoid of substance for the reason that the charges framed against the accused have to be seen, but not the extract made thereof. The accused have been appraised of all the charges numbering to ‘20’, but not for ‘6’ charges as mentioned in the extract before they were put their signatures. It is, however, clarified that the accused have been charged with as many as ‘20’ charges, but not with ‘6’ charges, which have been mentioned in the extract at the conclusion thereof. There are no merits in the revision case and the same is liable to be dismissed.”

Pursuant to an order passed by this Court, the trial in the said case commenced after altering charges 2 to 4. After completion of the entire trial and when the case was posted for arguments, the learned Public Prosecutor

again filed Crl.M.P. No.536 of 2015 for addition of some more charges. Aggrieved by the order of rejection, the informant preferred the present Revision.

As seen from the application filed under Section 216 Cr.P.C., the prosecution is aggrieved due to non-framing of a charge against A-9 for causing injuries to P.W.3 for an offence under Section 324 and 324 read with 149 IPC. Similarly, the Public Prosecutor wants to frame charges against the accused for causing injuries to P.Ws.3 to 14. A counter came to be filed by the respondent/accused explaining the tactics adopted by the prosecuting agency in dealing with the matter which is of the year 2002.

A perusal of the material on record would show that this is third time which the prosecution has approached this Court for framing of additional charges. If really the petitioners were aggrieved by the action of non-framing of the charge relating to causing injurious to P.W.3, they should have raised the issue before this Court or at least before the trial court, in the earlier rounds of litigation. As seen from the record, prosecution has filed applications for framing of additional charges in the year 2004 and also in the year 2012 vide Crl.M.P. No.370 of 2004, Crl.M.P. No.273 of 2012 respectively. At no point of time, the prosecution has raised this ground. Even the informant who approached this Court by way of Crl.R.C. No.307 of

2013, questioning the rejection of an application filed for framing of additional charge in Crl.M.P. No.273 of 2012, did not raise this issue. This Hon'ble court in its order dated 29.06.2015 has categorically held that the as many as 20 charges were framed against the accused and all the accused have been charged with different offences including the offence punishable under Section 149 IPC. This Hon'ble Court also held that there are charges with regard to specific overt acts insofar as all the accused.

From the narration of events, it appears that what has been mentioned today in the Court was not there in the earlier statements recorded by the police during the course of investigation. Otherwise, the prosecution or the informant would have brought to the notice of the Court for framing of a charge against A-9 either for causing injuries to P.W.3 or against other accused by invoking Section 149 IPC. The learned counsel placed on record the evidence of P.W.3 recorded in the month of July 2015 to show that she was attacked by A-9 causing an injury on the top of her head. No explanation is forthcoming as to why no application was filed immediately after the completion of evidence of P.W.3. The record shows that after completion of entire evidence and when the case is posted for arguments the present application came to be filed. Even after the impugned order being passed in the

month of January 2016, no steps are taken to challenge the same immediately. The record shows though the order was passed on 07.01.2016, copy application for the same was filed on 28.01.2016 and thereafter on 09.02.2016 the present revision is filed.

In view of the submission made by the petitioner that the arguments have commenced and are going on since last two days, there is no point in directing the trial court to frame additional charges under Section 324 and 324 read with 149 IPC at this point of time. In view of the observations made by this Court in CrI.R.C. No.307 of 2013; as the arguments have commenced and also having regard to the circumstances stated above, the request of the petitioner directing the trial Court to frame additional charges is liable to be rejected.

Accordingly, the Criminal Revision Case is dismissed.

As a sequel to it, miscellaneous petitions pending if any, in this Revision shall stand closed.

C. PRAVEEN KUMAR, J

Date: 23.02.2016

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