

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE Nos.849 and 908 of 2016

COMMON ORDER:

1. Since both the revisions arise out of one and the same order, these revisions are heard together and being disposed of by this common order.
2. CrI.R.C.No.849 of 2016 is filed by accused No.3 whereas CrI.R.C.No.908 of 2016 is filed by the State against the order dated 1.2.2016 passed in CrI.M.P.No.1768 of 2015 in C.C.No.3 of 2008 by the III Additional Metropolitan Sessions Judge, Hyderabad.
3. The Complainant-Public Prosecutor of the Court of Metropolitan Sessions Judge, Hyderabad filed a private complaint alleging that A1 to A6 with a common intention and with an oblique motive to defame not only L.W.1-M. Mahendra Reddy, who is working in the capacity of Inspector General of Police, A.P. Police Computerization & Standardization Project from January, 2007, but also the State Administration, published a defamatory news item under the title "IPS Boss Bhoo Bhagotham" in their Andhra Prabha Daily Telugu Newspaper, dated 26.10.2007 in the front page.
4. The accused No.3 along with other accused is facing trial in the above C.C. for the offence under Sections 500, 501 and 502 IPC. The evidence on behalf of the complainant was closed and while the matter has been coming up for the evidence on behalf of the accused, A3 filed the above CrI.M.P. under Section 315 Cr.P.C. seeking to permit him to examine himself as D.W.1 and to mark the documents mentioned in the petition viz., (1) Certified copy of letter No.700/Spl.C/A1/2007-3 issued by the

Joint Secretary to the Government of A.P., dated 28.3.2008; (2) Certified copy of Report submitted by R.C. Samal; (3) Certified copy of Page No.49, item No.85 of the report; (4) Compact Disc(CD) of NTV News conversation; and (5) Copies of the News Articles published in various news papers viz., Sakshi, Eenadu etc.

5. The complainant filed a counter stating that the certified copies filed by accused No.3 are not relevant to the fact in issue and that the monograph of the I.A.S. Officer R.C. Samal is not all considered to be as a report and the said R.C. Samal after his retirement published a monograph which contains the duties and functions of the Vigilance Commissioner and the procedure contemplated for submitting the report against the erring officials, and for recommendation of awarding punishments. It is stated in the counter that this Court in W.P.No.6249 of 2008 observed that the said Samal submitted his report one week after his retirement without there being any prior report and hence the said report cannot be considered as a report of the Vigilance Commissioner and more over, the alleged report was marked as Exhibit in C.C.No.2 of 2008, in which Samal is arrayed as an accused and that A3 is neither author of the document nor party to the document and hence, the documents in question cannot be marked as through A3. It is further stated that the copies of news items published in various news items are not at all relevant to the case and A3 is not entitled to give evidence on behalf of the other accused.

6. The trial Court after hearing both the parties, allowed the above Crl.M.P. in part permitting accused No.3 to examine himself as D.W.1 and to mark the documents mentioned at Serial Nos.1, 4 and 5 alone. Aggrieved by the order of the trial Court in not allowing to get the documents mentioned at Serial Nos.2 and 3 marked, accused No.3 filed

Crl.R.C.No.849 of 2016, whereas the State filed Crl.R.C.No.908 of 2016 aggrieved by the order of the trial Court in allowing accused No.3 to examine himself and to get the documents mentioned at Sl.Nos.1,4 and 5 marked.

7. From the order under revision, it is evident that documents Nos.2 and 3 are the Certified copies of the report submitted by R.C. Samal, who is an accused in C.C.No.2 of 2008. The said R.C. Samal filed a report against some of the Government officials and basing on the said report, one of the I.A.S officers through the Government filed C.C.No.2 of 2008 against the said Samal and the said Samal obtained stay orders from this Court with regard to the proceedings in C.C.No.2 of 2008. It is further evident that in W.P.No.6249 of 2008 it was observed by this Court that the report submitted by the said RC Samal cannot be considered as a valid report. Keeping in view the said observation, the trial Court did not allow accused No.3 for marking the documents mentioned at Serial Nos.2 and 3.

8. The learned Counsel for the petitioner-A3 failed to convince this Court as to the relevancy of documents mentioned at Sl.Nos.2 and 3, on which admittedly there was a finding by this Court in W.P.No.6249 of 2008. Therefore, this Court is of the view that the order under revision does not suffer from any illegality or irregularity warranting interference by this Court in this regard.

9. Insofar as the allowing part of the relief sought in the above Crl.M.P. is concerned, it is the contention of the learned Additional Public Prosecutor that accused No.3 should not have been allowed to examine himself to depose on behalf of himself and the other accused. He further contended that that documents mentioned at Sl.Nos.4 and 5 are the news

items and they are not relevant and that accused No.3 is neither author nor publisher of the said documents whereas the document under Sl.No.1 is the covering letter issued for documents Nos.2 and 3, and all those documents are not relevant in the present case.

10. It is pertinent to note that any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial. It is a statutory right created in favour of the accused. The accused should also be given an opportunity to prove his innocence. Therefore, there is no irregularity in the order under revision in this regard.

11. Further, the question as to whether the documents mentioned at Sl.Nos.1, 4 and 5 are relevant and admissible in evidence is to be decided by the trial Court. Therefore, this Court is of the view that the order under revision does not warrant any interference in this regard also.

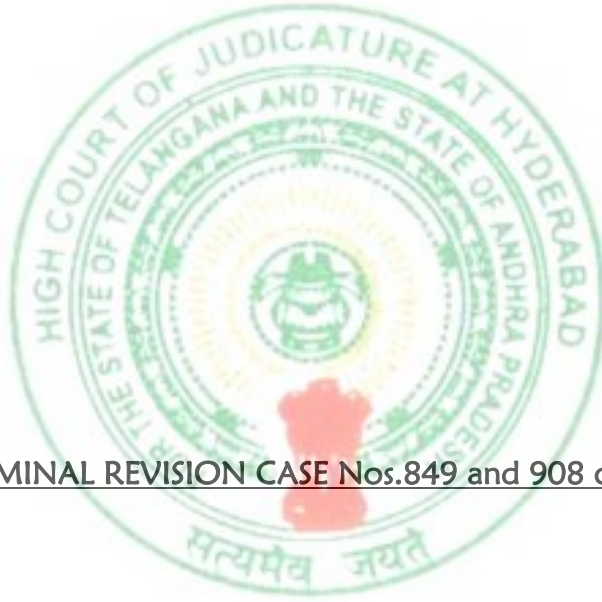
12. Accordingly, both the Crl.R.Cs are dismissed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated:15th July, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO



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15.7.2016

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