

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2126 of 2016

ORDER:

1) The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., aggrieved by the order, dated 05.08.2016 passed in CrI.M.P.No.63 of 2016 in S.C.No.135 of 2013 on the file of the XIII Additional District and Sessions Judge, Visakhapatnam at Gajuwaka, wherein and whereunder a petition filed by the Public Prosecutor under Section 242 read with 311 Cr.P.C. seeking recall of PW.16 and to receive the certified copy of bail application filed by accused in CrI.M.P.No.1037 of 2012 on the file of the Metropolitan Sessions Judge, Visakhapatnam, was rejected.

2) The facts in issue are as under:

The accused were charge sheeted for the offences punishable under Sections 302 and 201 IPC. The averments in the charge sheet discloses that accused Nos.1 to 4 are alleged to have hatched a plan to kill the deceased with a view to evade repayment of loan amount and accordingly killed the deceased when he visited the office of accused No.1 by pressing the neck with a rope. Thereafter, with a view to cause disappearance of the offence, packed the body of the

deceased in a gunny bag, transported the same in their car and threw the same in Yeleru Canal. After completion of entire trial and when the case is posted for the examination of accused under Section 313 Cr.P.C., the Public Prosecutor filed an application seeking recall of PW.16 to receive the certified copy of bail application filed by accused and mark it as an exhibit. A counter came to be filed by the accused opposing the same. After considering the entire material the trial Court dismissed the said application. Challenging the same, the de facto complainant filed the present revision.

3) It is to be noted that after closure of the entire evidence and the case is posted for the examination of accused under Section 313 Cr.P.C., the learned Public Prosecutor filed the present application stating that marking of bail application is very much essential to prove the date of arrest. A detailed counter came to be filed contending that non-mentioning of date of arrest of accused in the bail application said to have been moved by accused assumes no relevancy for the case. As held by the trial Court there is no provision in Cr.P.C. or Criminal Rules of Practice that the bail application should necessarily contain the date of arrest. Apart from that the present application came to be filed at a very belated stage ie. after the entire trial is completed and when the case was posted for examination of accused under Section 313 Cr.P.C..

No reasons are forthcoming as to why the present application has not been filed at an early stage. Though learned counsel for the petitioner submits that no prejudice would be caused if such document is placed on record, but the document which is sought to be marked is the bail application to know only the date of arrest of accused as alleged by them, for which marking of a bail application is not necessary. Hence, I see no reasons to interfere with the impugned order.

4) Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending shall stand closed.

08.09.2016
gkv



JUSTICE C. PRAVEEN KUMAR