THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1138 of 2012

ORDER:

The above Criminal Revision Case is filed by the petitioners - accused Nos.8, 10 to 14 against the order, dated 25.06.2012, passed in Crl.M.P. No.16 of 2012 in S.C. No.128 of 2006 by the II-Additional District and Sessions Judge, Mahabubnagar.

The case in brief is that the petitioners are accused in Crime No.81 of 2005 on the file of Narayanpet Police Station, for the offences punishable under Sections 147, 148, 307, 379 120(B) and 109 r/w.149 IPC and Sections 25(A) and 27(1A) of the Arms Act. The case was coming for trial by fixing schedule. At this stage, the investigation agency filed Crl.M.P. No.423 of 2011 before the Judicial Magistrate of First Class, Narayanpet, seeking permission for conducting further investigation in the case since certain new facts came into light. Learned Magistrate has accorded permission and during the course of investigation, the police examined certain witnesses and the investigation revealed that the accused involved in the terrorist activities. Basing on the material collected, the police filed additional charge sheet before the learned
II-Additional District & Sessions Judge, since the case was committed to that Court. After perusing the record and on satisfying the reasons shown by the prosecution, the learned Additional District & Sessions Judge received the additional charge sheet on record for framing charges under Sections 16(1) 'a' and 'b', 18 and 20 of the Unlawful Activities (Prevention) Act against the petitioners. Aggrieved by the same, the present revision is filed.

Heard and perused the material available on record.

A perusal of the order impugned discloses that the learned counsel appeared before the Court below on behalf of the petitioners herein, has raised the following points for consideration of the Court below.

1. The occurrence took place in the year 2005 and the application was filed in the year 2011 seeking permission for further investigation in the matter, after filing of the original charge sheet and that the additional charges were levelled as per the amended Act 35 of 2008 which has no retrospective effect.

2. The sanction granted by the government is bad in law and the sanction should be within seven days from the date of offence or even after filing of the original charge sheet. But the prosecution has filed the present additional charge sheet after framing of charges.

3. The group, which is said to have been banned by the time of the present crime, as per the sanction order, was not banned during the year 2004.

The learned trial Judge, after discussing all the points came to a conclusion on the points raised by the learned counsel for the petitioners, as follows:

As far as the cognizance taken is concerned, the original charge sheet was filed on 12.01.2006 much prior to filing of additional charge sheet. The sanction for prosecution as per the amended Act 35 of 2008 was granted by the Government on 23.7.2011. Basing on that sanction, the prosecution filed the application before the Court concerned for further investigation. In the instant case, the prosecution has obtained sanction for prosecuting the accused under the Amended Act and for the purpose of getting permission from the Court concerned for further investigation in the matter. As far as further investigation is concerned, even though permission by the Court is not necessary and mere information regarding further investigation to the Court concerned is enough, the prosecution obtained permission in the matter. Therefore, this Court is of the view that the cognizance taken by the learned trial Judge is not bad in law. As far as the contention of the learned Counsel for the petitioners that the accused-group is not a banned organization during the period of 2004 is concerned, the learned Public Prosecutor informed that the said group was declared as banned organization in January, 2004 itself and as per G.O.Ms.No.188 Home (Legal.II.A2) Department, dated 23.07.2011, the Government has also accorded permission to prosecute the petitioners under Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967.

By observing as above, the trial Court has rightly allowed the application filed by the prosecution for framing additional charges basing on the additional charge sheet filed by the prosecution. The said order does not suffer from any illegality or irregularity warranting interference by this Court.

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

RAJA ELANGO, J

July 19, 2016.

KTL