

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.8090 of 2016

ORDER

This Criminal petition is filed questioning the issuance of summons to the petitioner, who is shown as A4 in crime No.121 of 2014 of Gudur I Town Police Station, registered for the offence punishable under Section 307 r/w 34 & 109 I.P.C..

Originally, the case was registered against the petitioner as A4 and three others. The police completed the investigation and filed the charge sheet. It is submitted that by the date of alleged incident, the petitioner/A4 was not in India and was in Malaysia. Hence, the petitioner/A4 prays this Court to direct the respondents to delete his name from the array of the accused.

In the charge sheet filed by the police, it is clearly mentioned that the name of A4 is deleted from the list of accused and the same is also endorsed on the docket of the charge sheet by the office of the Court of the Additional Judicial I Class Magistrate, Gudur. But the learned Magistrate took cognizance of the offence against all the accused i.e., A1 to A4, ordered to issue summons, and accordingly summons were issued to the petitioner/A4. Hence, taking cognizance against non-charge sheeted accused without affording any reason, is improper.

In that view of the matter, this Criminal Petition is disposed

of directing the learned Additional Judicial I Class Magistrate, Gudur, Nellore District, to delete the name of the petitioner/A4 from the array of the accused in P.R.C.No.16 of 2015 and proceed against the other accused.

Miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

M.S.K.JAISWAL,J

Date:16.06.2016

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