

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.380 of 2016

ORDER:

This revision is preferred challenging the order dated 30.11.2015 in CrI.M.P. No.1689 of 2015 passed in PRC No.04 of 2010, by the Judicial Magistrate of First Class, Tekkali, Srikakulam District.

Brief facts of the case are that the 2nd respondent - de facto complainant is the owner of land of an extent of Ac.0-20 cents at Lattigam village, and she dug a well for cultivating the same. On 04.09.2008, at about 6.00 am, when the 2nd respondent went to her field, the petitioner and respondents 3 to 6 herein - accused, lifting the water by using water pump from the well of the complainant. The 2nd respondent questioned the same and the petitioner and respondents 3 to 6 abused her in the name of her caste and also beat her. On hearing her cries, LWs.1 and 2 rushed to the spot and rescued her and shifted her to the hospital. Basing on the intimation given by the doctor, a case in Crime No.101 of 2008 was filed by the Police Nandigam PS., against the accused. After investigating into the matter, the police referred the same as 'false'. Aggrieved by the same, the 2nd respondent filed a protest petition. The learned Magistrate took cognisance of the same and issued summons to the petitioner and the respondents 3 to 6. As the petitioner did not appear before the Court below, NBWs were issued against him. The NBWs were returned unserved with an endorsement that there is no such person by name Hanumanthu Satyababu. Therefore, the petitioner filed the impugned application before the Court below seeking permission to correct the name of the petitioner –

2nd accused in CC, as Hanumanthu Satyababu @ Satyanarayana

stating that the petitioner was called by both the names and due to innocence, she could not mention the name of the petitioner as Hanumanthu Satyababu @ Satyanarayana in the earlier report as well as in the protest petition. The Court below, vide impugned order, allowed the said application. Aggrieved by the same, the present revision is filed by the petitioner.

Heard and perused the material available on record.

Learned counsel for the petitioner submitted that the Court below has erred in allowing the application filed by the 2nd respondent by incorporating the name of the petitioner as '@ Satyanarayana' and there is no proof filed by the 2nd respondent with regard to the alias name of the petitioner.

A reading of the order impugned discloses that the petitioner and other accused have approached this Court to quash the proceedings against them in the above CC by filing CrI.P. No.10984 of 2010. While allowing the impugned application, the learned Magistrate has observed as follows:

"Surprisingly, all the accused including 2nd accused have approached the Honourable High Court of Andhra Pradesh vide Criminal Petition No.10984 of 2010 for quashing the proceedings of PRC 4 of 2010 on the file of this court through their counsel and thereafter the same counsel for accused by name P.L. Narayana Advocate filed memo stating that the accused therein, filed the zerox copy of order in Criminal Petition No.10984 of 2010 of Hon'ble High Court of A.P. at Hyderabad dt.3-11-2010 granting interim stay of further proceedings in PRC 4 of 2010 on the file of this Court. At present, the same counsel filed his counter in the present case in hand that no such name of person i.e. Hanumanthu Satyababu alias Satyanarayana in the village Lattigam, as such the alias name of such person as Hanumanthu Satyanarayana is not only false but is intended to introduced falsely to further harass the remaining accused. So, taking of such plea by the accused is too contradictions wit their own evidence, because, all the accused including the so called A2 also approached before the Hon'ble court to quash the proceedings through their counsel by giving their vakalat to representing the matter on their behalf. It that is being so, the question f ht so called A2 is not residing and no such person in the village and false name of A2 is mentioned in the complaint does not arise at all and the defence taken by the counsel for the accused is disbelieved and rejected in toto. Such type of pleas cannot

entertained before court of law.”

By observing as above, the learned Magistrate allowed the application filed by the 2nd respondent permitting her to change the name of the petitioner as “Hanumanthu Satyababu @ Satyanarayana. After perusal of the entire record and after reading the order passed by the learned Magistrate, this Court is of the view that the order of passed by the learned Magistrate is in accordance with law and there is nothing to interfere with the same. Hence, this Court is inclined to pass the following order:

The petitioner-2nd accused is directed to appear before the Court concerned and file a petition to recall the warrant issued against him and on such petition being filed, the Court concerned is directed to recall the warrant on the same day on his execution of a bond for a sum of Rs.1,000/- (Rupees one thousand only) with one surety for a like sum. Further, the petitioner is directed to appear before the trial Court regularly on all hearing dates.

Accordingly, the Criminal Revision Case is disposed of. Consequently, the Miscellaneous Petitions pending, if any, in this revision shall stand closed.

RAJA ELANGO, J

February 04, 2016

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