

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.80 OF 2014

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioners/ A-1 and A-3 to A-9 challenging the docket order, dated 1.11.2013, passed by the Judicial First Class Magistrate, Jangareddigudem.

2. *Vide* impugned order, the learned Magistrate, after perusing the statements of the witnesses, held that the involvement of A-1 and A-3 to A-9 is clearly established and therefore, he has taken cognizance for the offence punishable under Section 353 read with 34 I.P.C. against A-1 to A-12 and posted the matter to 4.12.2013 by ordering summons to A-1 to A-12. Challenging the same, the petitioners filed the present Revision Case.

3. Learned counsel for the petitioners contended that though the petitioners were shown as accused in the F.I.R., their names were deleted in the charge sheet by the Investigating Officer after due investigation by relying upon the evidence of L.Ws.11 to 14; that though the names of the petitioners were deleted by the Investigating Agency, the learned Magistrate has taken cognizance against them basing on the statements of the Police Constables, who are interested parties, and the learned Magistrate ought not to have taken cognizance against them.

4. Considering the facts and circumstances of the case, this Court is of the view that because the Investigating Agency deleted the names of some of the accused persons, who are in the F.I.R., and against whom some of the witnesses stated that they were present in the place of occurrence, it is not a ground to accept the final report filed by the Investigating Agency. The Magistrate can independently rely

upon the statements and the material placed before him and it is the prerogative of the Magistrate either to take cognizance or to reject to do so. If the petitioners are aggrieved over the taking of cognizance by the learned Magistrate, they are at liberty to file an application for discharge by placing reliance on the other material, which is filed by the Investigating Agency. On such application, the trial Court shall consider the same and pass appropriate orders in accordance with law. In the meanwhile, the presence of the petitioners before the trial Court is dispensed with except on the dates on which the learned Magistrate insists for their appearance.

- 5. With the above direction, the Criminal Revision Case is disposed of.
- 6. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

22.7.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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