

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1931 of 2016

ORDER:

1) The petitioners, who are accused Nos.1, 3, 4 and 5, preferred the present Criminal Revision Case under Sections 397 and 401 Cr.P.C. questioning the order dated 04.07.2016 passed in CrI.M.P.No.51 of 2016 in S.C.No.105 of 2016 on the file of the Principal Assistant Sessions Judge, Tirupati, wherein an application filed to discharge them from the offences punishable under Sections 120-B and 307 read with 34 IPC was rejected.

2) The facts in issue are as under:

3) A charge sheet came to be filed against the petitioners and another for the offences punishable under Sections 120-B and 307 read with 34 IPC. The averments in the charge sheet show that LW.1 was living by doing various real estate businesses. Accused No.1, who is relative of LW.1, was previously working as partner but later on got separated, due to which accused No.1 is alleged to have created fake documents claiming right over a land admeasuring Ac.8.33 cents situated at Sy.No.173/ 1 in Kokachinapeta which according to LW.1 belongs to his maternal uncle by name Nageswara Rao. It is alleged that accused No.1 gave trouble to LW.1 and Nageswara Rao, pursuant to which an amount of Rs.7.00 lakhs was paid to accused No.1 and made him executing a relinquishment deed in favour of LW.1. On

15.02.2015 accused Nos.1 and 2 contacted LW.1 on phone and asked him to come to the office of Rama Murthy to discuss about a dispute relating to half acre of land in Sy.No.172/1. LW.1 is alleged to have gone to there, where accused Nos.1 and 2 demanded him to hand over the site on payment of Rs.40.00 lakhs. LW.1 is alleged to have replied stating that he needs some time to consider. Thereafter, accused contacted and asked him to come to the office of Rama Murthy, but LW.1 did not accept their request. Thereafter, accused Nos.1 and 2 along with accused Nos.3 to 5 hatched a plan to get rid of the informant by hitting him with a Tata Spacio vehicle. In furtherance of their conspiracy on 23.02.2015 at about 7.30 a.m. accused Nos.1 to 5 laid a wait for the informant, who used to come for morning walk from his residence. Pursuant thereto, the vehicle driven by accused No.3 hit the informant and fled away. But luckily the informant survived. Basing on the statement of the injured, a case in Crime No.53 of 2015 of Tiruchanur Police Station came to be registered under Section 337 IPC. During the course of investigation police examined LWs.1 to 9, obtained call data record of accused persons and filed charge sheet against the accused for the offences punishable under Sections 120-B and 307 read with 34 IPC.

4) Relying upon the statements of witnesses recorded by the police during the course of investigation, learned counsel for the petitioners mainly submits that even accepting the allegations in the charge sheet to be true, no offence under Section 307 IPC is

made out against the petitioners. He submits that none of the witnesses speak about the role of the petitioners in the commission offence. The same is opposed by the learned Public Prosecutor contending that the statement of the witnesses recorded by the police during the course of investigation and also the call data records amply established the conspiracy hatched by the accused to kill the informant. In view of the above, he submits that the trial Court rightly dismissed their application for discharge.

5) As seen from the averments in the charge sheet and also the documents filed along with the charge sheet, the incident in question took place on 23.02.2015 at about 7.00 a.m. On that day while the injured was walking on the road, a white colour Tata Spacio vehicle bearing No.AP 04 AW 9183 hit him, stopped the vehicle after a distance and then fled away. Immediately the same was informed to the wife of the injured. Then, the wife and driver of the injured came there and admitted him in Swetha Multi Speciality Hospital, Tirupati in a vehicle bearing No.AP AF 4559. Initially the police proceeded as if it was a case of hit and run. Later basing on the number of the vehicle given by LW.1 the police were able to secure the particulars of the owner of the vehicle. The investigation done by the police more particularly the statement of LW.7 reveals that he purchased the said vehicle from LW.6 and from him it was purchased by accused No.3. Initially the First Information Report was registered for an offence punishable under Section 337 IPC. When the informant came to

know that it was accused No.3, who was the driver of accused No.1 and the vehicle stands in his name, he brought to the notice of the police about the disputes which are pending between both the parties. Hence, the police were forced to record the second set of statements on 28.03.2015 wherein it is stated about the existence of previous disputes between him and accused. In the said statement, he discloses that accused Nos.1 to 5 called him to the office of Rammurthy and as such suspects that accused Nos.1 to 5 hatched a plan to kill him. Statement of LW.1 which has been recorded by the police on 28.03.2015 gets corroborated from the statements of LWs.2 and 3, who were infact present and witnessed the incident. It is also to be noted that on 08.03.2015 LW.7 categorically stated that it was accused No.3, who purchased the vehicle from him and at the time of purchase, accused Nos.1 and 2 came to his garage for purchase of the vehicle. Therefore, the argument of the learned counsel for the petitioners that there is no material connecting the petitioners to the case cannot be accepted at this stage.

6) It is true that there are two sets of 161 Cr.P.C. statements. The first set of statements of LWs.1 to 3 were recorded on 23.02.2015 ie. on the date of incident itself. At that time none of them suspected the involvement of the petitioners in the crime, as they proceeded on a premise that it was a case of hit and run. But one fact which is to be noted that number of crime vehicle was mentioned in the first report itself. Basing on the number given, the police continued their investigation and found that the

said vehicle was sold by LW.6 to LW.7 and then by LW.7 to accused No.3. The statement of LW.7 clearly shows that accused Nos.1 and 3 came to garage at the time of purchase of the said vehicle. On coming to know about the ownership of the vehicle, the informant gave details of their animosity and also about the threat given by the accused to do away with his life if he does not sell the land for Rs.40.00 lakhs. Therefore, at this stage, it cannot be said that the petitioners are totally innocent of the offences alleged.

7) Learned counsel for the petitioners submits that the allegations in the charge sheet will not make out a case under Section 307 IPC and that it could be a minor offence. The said argument *prima facie* establishes the presence of the petitioners at the scene. Moreover, the gravity of the offence cannot be decided at this stage more so having regard to the manner in which the incident happened and the disputes between the parties. Hence, I see no reason to interfere with the impugned order.

8) Accordingly, the Criminal Revision Case is dismissed.

9) Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

20.10.2016
gkv