

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 2824 of 2015

ORDER:

The present revision came to be filed assailing the order dated 06.10.2015 passed in CrI.M.P.No. 2137 of 2014 in C.C.No.418 of 2015 on the file of the VI Additional Judicial Magistrate of First Class, Warangal, wherein and whereunder an application filed under Section 302 of Cr.P.C. seeking permission of the Court to conduct prosecution by an advocate of his choice, was rejected.

The facts which lead filing of the revision are as under:

A charge sheet came to be filed against accused Nos.1 to 9, respondent Nos.2 to 10 herein, for the offences punishable under Sections 447, 448 and 506 read with 34 IPC, alleging that on 25.11.2012 LW.5 called the informant and informed that accused Nos.1 to 9 criminally trespassed into the land of the informant with the help of accused No.3 and get down LWs.3 and 4, who are watchman and his wife from the shed and threatened them with dire consequences and thereafter they leave their motor cycles numbering five, 15 plastic chairs and one red colour carpet at the scene of offence and fled away from the scene. The said charge sheet was taken on file and numbered as C.C.No.418 of 2015.

When the said case was coming up for trial, the informant filed an application under Section 302 of Cr.P.C. seeking permission of the Court to conduct prosecution by an advocate of his choice. The same was opposed by the Public Prosecutor. After considering the rival submissions made and having regard to the judgment of the Apex Court in ***Shiv Kumar v. Hukam Chand***^[1] the learned trial Judge dismissed the application holding that the scope of Section 302 Cr.P.C. does not contemplate or provide an opportunity to the

informant to appoint an advocate of his choice for conducting the trial.
Challenging the same the present revision is filed.

Though various grounds are raised in the petition, learned counsel for the petitioner submits that the petitioner may be permitted to assist the Public Prosecutor and to file written arguments through Public Prosecutor, if necessary.

Having regard to the request made by the learned counsel for the petitioner and in view of the Judgment of the Apex Court referred to above, the petitioner can at the most assist the Public Prosecutor during the course of trial.

Accordingly, the Criminal Revision Case is disposed of, permitting the petitioner to appoint an advocate to assist the Public Prosecutor during the course of trial and submit written arguments through Public Prosecutor, making it clear that the said Advocate will not have any right of audience.

As a sequel thereto, Miscellaneous Petitions pending if any in this CrI.R.C. shall stand closed.

C. PRAVEEN KUMAR, J

06.04.2016

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[\[1\]](#) (1999) 7 SCC 467