HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2178 of 2014

ORDER :

Assailing the order dated 01.10.2014 passed in Crl.M.P.No.41 of 2014 in S.C.No.284 of 2013 on the file of II Additional Assistant Sessions Judge, Kakinada, wherein and whereunder the application filed by the accused under Section 233(3) of Cr.P.C. was allowed in part, the present revision is filed.

The facts of the case are as under:

A charge sheet came to be filed against the petitioners for the offences punishable under Sections 498-A and 313 of IPC. During the course of trial, the informant who was examined as PW1 deposed false evidence. She filed maintenance case in which an amount of Rs.10,000/- was granted to her. Suppressing the said fact, the informant further filed a suit in O.S.No.108 of 2011 claiming maintenance of Rs.50,000/-. Further, the informant is alleged to have denied working in Aditya Group of Institutions (polytechnic college) and receiving salary through her account in ICICI Bank. Hence, the petitioners filed Crl.P.M.P.No.41 of 2014 to summon the Management of the Educational Institutions and also ICICI Bank officials to prove the alleged false statements made by the informant. The rejection of the request made by the petitioners by the Sessions Court with regard to summoning the employee of ICICI Bank and allowing the application insofar as the management of the Polytechnic College, Aditya Group of Institutions, Surampelem, lead to filing of the present revision.

Learned counsel for the petitioners submits that having accepted the plea of the petitioners in summoning the employee of the polytechnic College, Aditya Group of Institutions, Surampelem, the Court ought not to have rejected their request for summoning the Manager of ICICI Bank. He further submits that in order to prove that the witness is coming forward with the true facts, he wants to summon the Principal of Polytechnic College as well as the Manager of ICICI Bank. Learned counsel for the respondent opposed the same.

In order to appreciate the issue involved, it would be appropriate to extract the relevant portion of the cross-examination of PW1, which is as under:

"…It is not true to say that because of my harassment only A1 applied for divorce. I have two bank accounts one in SBI Port Branch and the other in Union Bank of India. In the said bank accounts I was referred with my maidens surname. I do not have any account in ICICI bank in Peddapuram. It is not true to say that I drew salary through my account number 067801501519, ICICI Bank, Peddapuram."

As observed earlier, the trial Court having allowed the application in part by summoning the Principal, Polytechnic College, Aditya Group of Institutions to prove that the informant is working in the said college, no prejudice will be caused if the Manager of ICICI Bank, Peddapuram is summoned to prove that she was receiving salary through ICICI Bank.

In ***Natasha Singh Vs. Central Bureau of Investigation***[1], the Apex Court while dealing with concept of fair trial, observed as under:

> "Fail trial is the main object of criminal procedure, and it is the duty of the Court to ensure that such fairness is not hampered or threatened in any manner. Fair trial entails the

> interests of the accused, the victim and of the society, and therefore, fair trail includes the grant of fair and proper opportunities to the person concerned, and the same must be ensured as this is a constitutional, as well as a human right. Thus, under non circumstances can a person's right to fair trail be jeopardized. Adducing evidence in support of the defence is a valuable right. Denial of such right would amount to the denial of a fair trial"

Having regard to the said circumstances and in view of the judgment referred to above, this revision is allowed.

As a sequel, Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

29.02.2016.
vhb

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[1] (2013) 5 SCC 741