

ORDER:

The present criminal revision case is filed by the petitioners challenging the docket order, dated 06.11.2014, passed in C.C.No.756 of 2014 in Crime No.128 of 2014 of Madanapalle I Town Police Station, by the Court of the II Additional Judicial Magistrate of First Class, Madanapalle, whereby the Court below has taken the cognizance for the offences under Sections 417 and 420 IPC and issued summons to the petitioners.

Heard and perused the records.

Learned counsel for the petitioners submits that the names of the petitioners herein were deleted after a thorough investigation by the investigating agency and the prosecution filed charge sheet deleting the names of the petitioners. The Court below erroneously has taken cognizance against the petitioners herein, on the oral protest petition of the *de facto* complainant.

This Court is of the view that it is necessary to extract the impugned docket order, dated 06.11.2014, which runs as follows.

"L.W.1 and L.W.2 are present and they requested this Court to add A.2 to A.4 and not to delete them. Heard. Perused the record. Hence, cognizance is taken for the offence under Sections 417 and 420 of IPC against A.1 to A.4.

Issue summons to A.1 to A.4. Call on 16.02.2014."

This Court is of the view that after filing of the charge sheet deleting some of the accused, who are shown as accused in the First Information Report, and when protest petition is filed by the *de facto* complainant, the trial Judge has to take evidence on oath and thereafter decide the issue in accordance with law. In the present case, the order passed by the Court below is erroneous as the same is passed without following the procedures. Hence, this Court is of the view that the order passed by the Court below is liable to be set aside and is accordingly set aside. However, it is left open to the *de facto* complainant to file proper petition before the Court concerned if she is aggrieved over filing of charge sheet deleting the names of the petitioners as accused and on such application being filed, the Court below has to follow the procedure and pass speaking order in accordance with law.

With the above directions, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

01.06.2016

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