

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1151 OF 2016

ORDER:

This Criminal Revision Case is filed by the petitioners-accused Nos.3, 4 and 5 under Sections 397 and 401 Cr.P.C., challenging the order, dated 18.03.2016, in Crl.R.P. No.9 of 2015 passed by the IV Additional Metropolitan Sessions Judge, Ranga Reddy District at L.B. Nagar.

The 2nd respondent – de facto complainant filed a complaint against the petitioners, who are A3 to A5, and respondents 3 and 4, who are A1 and A2, respectively, for the offence punishable under Section 138 of the Negotiable Instruments Act and the trial Court took cognizance of the case against the petitioners and respondents 3 & 4 for the said offence and issued summons to them. The petitioners appeared before the trial Court, but the respondents 3 & 4 have not appeared and wantonly avoiding the summons by changing their addresses. Therefore, the petitioners filed a memo before the trial Court requesting to split up the case against respondents 3 & 4 and proceed with the case against them. The trial Court, vide order, dated 18.12.2013, allowed the said Memo by splitting up the case and numbered it as CC No.227 of 2013 against respondents 3 & 4 and ordered to be proceeded with the case against the petitioners while re the case as CC No.149 of 2012. Challenging the said order, the de facto complainant filed Crl.R.P. No.9 of 2015 before the IV Additional Metropolitan Sessions Judge, Ranga Reddy District at L.B. Nagar. The learned Sessions Judge allowed the revision petition by setting aside the docket order, dated 18.12.2013, passed by the trial Court and directed the trial Court to proceed against all the accused in CC No.149 of 2012. Challenging the same, the present revision case is filed.

Learned counsel for the petitioner submitted that since the summons were not served on respondents 3 & 4 and they have not appeared before the trial Court, the petitioners filed a memo to split up the case against them and accordingly, the trial Court has split up the case against them and the learned Sessions Judge without taking into consideration the fact of non-appearance of respondents 3 & 4, has set aside the order passed by the trial Court and directed the trial Court to proceed against all the accused.

Heard and perused the material available on record.

A perusal of the record discloses that the 2nd respondent filed a complaint against the petitioners and respondents 3 & 4 under Section 138 of the Negotiable Instruments Act. Respondent No.3 is a Company and respondent No.4 is its Managing Director and the petitioners are Directors of that company. It is also evident from the order impugned that respondents 3 & 4, after splitting up of the case, have approached this Court and filed a quash petition. Therefore, as rightly observed by the learned Sessions Judge, respondent No.4, who is the Managing Director of respondent No.3 company, has knowledge about pendency of CC No.149 of 2012 against them and he has intentionally avoiding the process. Therefore, this Court is of the view that the learned Sessions Judge has rightly set aside the order of the trial Court and this Court finds no reason to interfere with the order passed by the learned Sessions Judge.

When this Court is not inclined to set aside the order of the learned Sessions Judge, learned counsel for the petitioners submitted that the presence of the petitioners may be dispensed with before the trial Court. In view of the said submission, this Court is inclined to pass the following order:

The Criminal Revision Case is disposed of and the order dated

18.03.2016 passed in Crl.R.P. No.9 of 2015 by the learned IV Additional Metropolitan Sessions Judge, Ranga Reddy District at L.B. Nagar is confirmed. The trial Court is directed to issue summons afresh to respondent Nos.3 and 4, who are A1 and A2 respectively, and to proceed with the case.

Till service of summons against A1 and A2, the presence of the petitioners herein is dispensed with before the trial Court.

Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

June 08, 2016.
KTL