

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2715 OF 2016

ORDER:

The Criminal Revision Case is filed against the docket order dated 27.09.2016 in C.F. No.742 of 2014 by the learned Junior Civil Judge-cum-Judicial First Class Magistrate at Vuyyuru, Krishna District. The docket order reads as follows:

“In view of the orders passed by the Hon’ble High Court in C.R.P. No.10644 of 2016, this application is closed.”

2) Heard both sides and perused the material on record.

3) The PRC proceedings initiated by the defacto complainant in a private complaint, not satisfying with the investigation done by the police on his report registered as FIR in Crime No.105 of 2012 of Pamidimukkala Police Station, for the offences punishable under Sections 447, 323, 325 and 506 read with Section 34 I.P.C. and from the police final report, learned Magistrate has taken cognizance for the offences supra in allotting Calendar Case No.482 of 2013 against three accused.

4) Coming to the facts of the case, initially the private complaint is filed against three accused, subsequently accused No.4 is added and not covered by the police investigation (supra) and in claiming that it attracts the offence under Section 307 IPC against all the accused. Section 210 Cr.P.C contemplates

the procedure to be followed when there is a private complaint case and police investigation in respect of the same offence. What the procedure envisaged in both cases, if at all, private complaint case taken cognizance before completion of investigation by waiting therefrom and any cognizance taken therefrom at the post cognizance stage of both cases to proceed together simultaneously. No doubt, that stage is not reached herein. The police after investigation, apart from the facts, scope to raise protest by the defacto complainant for not a case of referring but registered and filed final report. However, the grievance of the defacto complainant in saying some of the accused not included and grave offence is committed in not properly investigating and in maintaining the private complaint for what the private PRC proceedings procedure contemplated is Section 200 to 204 Cr.P.C and in particular, so far as private PRC proceedings it is covered by Sub-section (2) of Section 200 Cr.P.C and the provision of it in particular.

5) Here as can be seen from the docket proceedings of the learned Magistrate, the statements of the prosecution witnesses produced is recorded. It appears four witnesses already examined and their statements were recorded in the pre-cognizance enquiry.

6) In the factual background, coming to the correctness of the impugned order is concerned, when the CF No.742 of 2014 filed before the the learned Magistrate, Vuyyur, Krishna

District initially dismissed on 13.03.2015 and aggrieved by the same, when the defacto complainant maintained Crl.R.P. No.38 of 2015 before the XI Additional District and Sessions Judge, Gudivada to set-aside the impugned dismissal order and the learned Sessions Judge on 07.01.2016 while setting aside the impugned order remanded the matter to proceed with enquiry and give a disposal afresh. It is impugning the same, the accused persons maintained Crl.P. No.10644 of 2016 before this Court in another bench. It is to say, for more clarity of its order only that Crl.P. No.10644 of 2016 is filed impugning the order dated 07.01.2016 passed in Crl.R.P. No.38 of 2015 is only in respect of private PRC proceedings and not against the police case proceedings of C.C. No.482 of 2013.

7) It is not even a stage by invoking Section 210 Cr.P.C as referred supra, the order in Crl.P. No.10644 of 2016 but for saying disposal of CC No.482 of 2013 no where speaks about the order of the learned Sessions Judge dated 07.01.2016 in Crl.M.P. No.38 of 2015. However, the learned Magistrate by the impugned docket order dated 27.09.2016 says in view of the orders of the Hon'ble High Court in Crl.P. No.10644 of 2016, the continuation of private PRC proceedings are closed. Thus the impugned order of the learned Magistrate is *per se* unsustainable and liable to be dismissed.

8) Accordingly and in the result, the revision is allowed setting aside the docket proceedings dated 27.09.2016 passed in

C.F. No.742 of 2014 by the learned Magistrate and follow the order passed on 07.01.2016 in Crl.M.P. No.38 of 2015 by the XI Additional District & Sessions Judge, Gudivada. However, it is made clear that, if at all, the accused persons seek any clarification in disposal of Crl.P. No.10644 of 2016 and any direction given, no doubt, binding on the learned Magistrate.

9) As a sequel, miscellaneous petitions if any pending shall stand closed.

Dt.13.03.2017
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Dr. B. SIVA SANKARA RAO, J



