

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE NO.268 OF 2009

ORDER:

This Criminal Revision Case is filed by the petitioners-A1 and A4, under Sections 397 and 401 Cr.P.C., challenging the order, dated 19-01-2009 in CrI.M.P.No.5302 of 2008 in C.C.No.455 of 2007 on the file of the IV Additional Junior Civil Judge, Guntur.

2. Though the matter was listed on 10-08-2017, there was no representation on behalf of the petitioners; therefore, the Registry was directed to list the matter today under the caption 'for dismissal'. Even today also, there is no representation on behalf of the petitioners; therefore, this Court is inclined to dispose of this revision on merits.

3. As seen from the record, the contention of the petitioners is that the *de facto* complainant has not obtained sanction from the competent authority to prosecute the petitioners for the offence punishable under Section 29 (1) (b) (c) r/w 13 (1) of Insecticide Act, 1968 (for brevity 'the Act'). It is the further contention of the petitioners that the material placed before the trial Court is not *prima facie* sufficient to proceed further against the petitioners. **Per Contra**, learned Additional Public Prosecutor representing the State of Andhra Pradesh submitted that the trial Court rightly considered various aspects and dismissed the petition filed by the petitioners under Section 245 (2) Cr.P.C. He further submitted that the material available on record is *prima facie* sufficient to proceed further against the petitioners. He further submitted that there is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court.

4. The points that arise for consideration, in this revision, are:

- 1) Whether the trial Court is justified in dismissing Crl.M.P.No.5302 of 2008 in C.C.No.455 of 2007 filed by the petitioners under Section 245 (2) Cr.P.C.? and
- 2) Whether there is any illegality, irregularity or impropriety in the order of the trial Court, which warrants interference of this Court while exercising the revisional jurisdiction under Sections 397 and 401 Cr.P.C.?

5. Since both the points are inter-linked with each other, this Court is inclined to answer both the points simultaneously, in order to avoid re-capitulation of facts.

6. A perusal of the record reveals that the 2nd respondent herein filed a complaint under Sections 190 and 200 Cr.P.C. against the petitioners for the above offences. The trial Court, after satisfying itself, has taken the case on file and numbered it as C.C.No.455 of 2007. While things stood thus, the petitioners herein, who are A1 and A4, filed the above Crl.M.P., under Section 245 (2) Cr.P.C., for discharge. The trial Court, after considering the material available on record, dismissed the said petition. Hence, this revision.

7. The first and foremost contention of the petitioners is that no sanction was obtained prior to filing of the complaint. I have carefully perused the sanction order issued by the Collector and District Magistrate, Guntur. It is not out of place to extract herein the relevant portion of the sanction order, which reads as follows:

“Hence, it is considered to give consent under 1 Act 1968 to launch prosecution under 1 Act 1968 against the following persons as detailed below.

1. M/s Excel Industries Ltd. 184-87, Swami Vivekanand Road, Jogeshwari (W), Mumbai 400 012.
2. Sri Gudela Phani Kumar, age 31 years, s/o G.V.Satyanarayana, Accountant for south Zone, Bio

division D.No.3-2-53. M/s Excel Industries Ltd. Rajula Street, R.R. Nagar, Vijayawada 520 012.

3. Sri M.G.Rajini Kanth, age 28 years s/o Netaji, Godown in charge of M/s Excel Crop Care Ltd. Ankireddypalem, near H.B. colony, Nallapadu Road, Guntur. D.No.3-170-19/1, Pattabhipuram, Guntur.”

8. A perusal of the record clearly reveals that after following the due procedure, the competent authority issued sanction order to prosecute the petitioners for the offence alleged to have been committed by them. A perusal of the record reveals that the sanctioning authority, after considering relevant material, rightly issued the sanction order. The trial Court also made an observation in the order that the competent authority issued sanction order to prosecute the petitioners. I am fully agreeing with the findings recorded by the trial Court with regard to validity of the sanction.

9. I have carefully perused the complaint filed by the 2nd respondent herein, in order to appreciate the contention of the petitioners. A perusal of the record *prima facie* reveals that the petitioners have been carrying on business without obtaining necessary permission. A perusal of the record further reveals that the petitioners herein stocked the insecticide even after expiry time.

10. It is needless to say that while deciding the petition filed under Section 245 (2) Cr.P.C., the Court has to consider whether the material placed before it is *prima facie* sufficient to proceed further or not. If the material placed before the Court is not sufficient to frame the charges, the Court can discharge the accused.

11. It is settled principle of law that the Court cannot conduct roving enquiry at the time of framing of charges. A

perusal of the record reveals that the trial Court after satisfying itself that there is a *prima facie* material, dismissed the petition. In **STATE OF HIMACHAL PRADESH V KRISHAN LAL PARDHAN** ¹, the apex Court held thus:

“For scrutiny within the limits of Section 239 Cr.P.C., all that is required at the stage of framing of charges is to see whether a *prima facie* case regarding the commission of certain offences is made out. The question whether the charges will eventually stand proved or not can be determined only after the evidence is recorded in this case, which cannot be decided on merits without giving the prosecution an opportunity to adduce evidence against the accused.”

12. In **STATE OF J&K v. ROMESH CHANDER** ², the apex Court held thus:

“It is now settled law that the charge-sheet constitutes *prima facie* evidence constituting the offence for proceeding further in the matter. Necessarily, therefore, the Court has to look into the relevant law and the allegations made in the charge-sheet and then consider whether any offence has been committed to frame charges for trial before discharging the accused. Since the High Court has not *done* that, we think it proper that the High Court should reconsider the matter and dispose of it in accordance with law. All the contentions raised by the learned *counsel* on either side are left open. It is open to the counsel to argue the matter in the High Court.”

13. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited *supra*, I am of the considered view that there is a *prima facie* material against the petitioners to proceed further. The trial Court considered the material on record in right perspective and dismissed the petition. The trial Court assigned reasons, much less, cogent and valid reasons while dismissing the petition. Therefore, there is no illegality or irregularity in the order passed by the trial Court, which warrants interference of this Court while exercising the revisional jurisdiction

¹ AIR 1987 SC 733

² (1997) 1 SCC 90

under Sections 397 and 401 Cr.P.C. Hence, the revision lacks merits and bona fides and is liable to be dismissed.

14. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending, in this revision shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 17-08-2017.

Hsd

