

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2805 of 2016

ORDER :

Impugning the docket order dated 08.06.2016 passed by the learned Judicial First Class Magistrate, Luxettipet, Adilabad District, in taking cognizance against A8 to A10, despite police final report deleted their names, the revision is maintained by A8 to A10 as revision petitioners.

2. Heard and perused the impugned order of the learned Magistrate.

3. No doubt, as per the Constitution Bench expression of the Apex Court in *Dharam Pal v. State of Haryana*¹, the Magistrate is not bound by the opinion of the police investigation final report and may be entitled to differ with and taking cognizance irrespective of the police final report shows no accusation, provided there is material by application of judicial mind. Here, the impugned order of the learned Magistrate is without assigning any reasons in differing to the police opinion much less outcome of application of mind to the material on record.

¹ AIR 2013 SC 3018=2014(3) SCC 306

4. Having regard to the above, the docket order dated 08.06.2016 passed by the learned Judicial First Class Magistrate, Luxettipet, Adilabad District, is set aside, with a direction to the learned Magistrate to pass a specific order, if there is material with reference to the material from the prosecution final report if at all to take cognizance specifically and separately, so far as revision petitioners/ A8 to A10 are concerned.

5. Accordingly, the Criminal Revision Case is disposed of.

6. Miscellaneous petitions, pending if any, shall stand closed.

Date: 15-03-2017
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Dr. B. SIVA SANKARA RAO, J

