

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL REVISION CASE No.129 OF 2014

ORDER:

Today also, there is no representation for the revision petitioner – accused No.3. In fact, there was no representation for the revision petitioner on 07.11.2017. Even earlier thereto i.e., on 06.02.2014, when the matter was called, there was no representation.

Heard the learned Additional Public Prosecutor for the State of Telangana appearing for the respondent.

The revision petitioner is arraigned as accused No.3 in Sessions Case No.189 of 2013 pending on the file of the I-Additional Metropolitan Sessions Judge at Hyderabad. Altogether nine accused are arraigned in the said Sessions Case. They alleged to have committed the offences punishable under Sections 307, 324 and 120 (B) read with Section 34 IPC and Section 25 (1) (A) of Arms Act.

When the learned I-Additional Metropolitan Sessions Judge intended to proceed with the examination, the revision petitioner moved an application in CrI.M.P.No.1043 of 2013 under Section 227 of the Code of Criminal Procedure, 1973, requesting to discharge him of the aforesaid offences in the said Sessions Case.

What all the revision petitioner - accused No.3 pleaded before the learned I-Additional Metropolitan Sessions Judge was that he has nothing to do with the alleged offences; he is unconnected with the crime; there is no whisper against him in the entire charge sheet and so

also no tangible legal material against him, except the alleged confession of accused No.2, which, according to him, was fabricated by the investigating agency to implicate him falsely. According to the revision petitioner, even if the confession of accused No.2 is true, it is inadmissible in evidence against him, except to the extent of Section 27 of the Indian Evidence Act (for short, 'the Act'), and that was the main ground on which the discharge was sought.

Though, there is no representation for the revision petitioner, since the Sessions Case is of the year 2013 and the revision case relates to the year 2014, which is unnecessarily stalled for want of representation on behalf of the revision petitioner – accused No.3, having heard the learned Additional Public Prosecutor, this Court intended to dispose of the present revision case.

When the confession of co-accused, who is accused No.2, is occurring on record, it is premature to contend that it is inadmissible in evidence. The confession of a co-accused can be relied on depending on the facts and circumstances of the case and the legal aspect involved therein. In fact, it cannot be said that the confession of a co-accused is inadmissible against the petitioner under Section 30 of the Act, though, not under Section 27 of the Act. Thus, there is no bar enacted by the provisions of Section 30 of the Act and, if there is material available on record, the confession of co-accused can be used for corroboration.

Learned Additional Public Prosecutor would submit that pursuant to the confession made by accused No.2, the revision petitioner –

accused No.3 also made a confession and, consequent upon his confession, the hunting sickle, which is said to have used in the commission of offence, was recovered at his instance from a mechanic shop of one Siddiqui situated opposite S.T. Hotel on 01.10.2009 at 1930 hours, which fact was noted by the learned I-Additional Metropolitan Sessions Judge and, thereby, the request of accused No.3 was rejected dismissing the application. Nothing more is required to observe. When confessional statement of a co-accused is occurring and the confessional statement of the revision petitioner – accused No.3, which lead to recovery of a weapon alleged to have used in the commission of offence, was recorded by the investigating agency, it cannot be said that the revision petitioner is unconnected with the crime. There is no merit in the present revision case.

The Criminal Revision Case is, accordingly, dismissed confirming the order passed by the court below. It is made clear that the observations made in the above would not be taken into consideration during trial of Sessions Case No.189 of 2013 and the learned I-Additional Metropolitan Sessions Judge, Hyderabad, shall dispose of the Sessions Case uninfluenced by the observations made in the present revision case.

Miscellaneous applications, if any pending in the present revision case, stand closed.

JUSTICE A.SHANKAR NARAYANA

08.11.2017

v v