

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.781 of 2016

JUDGMENT:

This criminal revision case, under Sections 397 and 401 of Cr.P.C., is filed questioning the propriety and legality of the order passed in CrI.M.P.No.19 of 2016 in S.C.No.121 of 2014, dated 26-02-2016, by the Assistant Sessions Judge, Repalle, issuing summons to the petitioners/accused.

It is the case of the petitioners herein that they filed CrI.P.No.55 of 2011 before this Court under Section 482 of Cr.P.C., to quash the proceedings in P.R.C.No.48 of 2010 against them in Crime No.162 of 2009 of Repalle P.S., for the offence punishable under Section 306 read with 34 of I.P.C. This Court, by order, dated 20-06-2013, quashed the proceedings against the petitioners herein, who are A-1, A-3, A-4, A-6 to A-10, A-13 and A-14, while dismissing the application to quash the proceedings against A-2, A-5, A-11 and A-12 in P.R.C.No.48 of 2010.

But after recording the evidence, during trial, the Public Prosecutor for the State, filed a petition under Section 319 of Cr.P.C., on the ground that there is material against the petitioners herein to proceed against them for the offence punishable under Section 306 r/w.34 of IPC and requested to issue notices to them. On the strength of such petition,

notices were issued to array the petitioners herein as accused in the above S.C.No.121 of 2014 on the file of the Assistant Sessions Judge, Repalle.

The main ground urged before this Court is that when the proceedings against the petitioners herein were quashed by the order of this Court in CrI.P.No.55 of 2011, dated 20-06-2013, they cannot be arrayed as accused subsequent to recording evidence of any witnesses. A copy of the order is placed on record by the petitioners herein to substantiate their contention that the proceedings against them were quashed in P.R.C.No.48 of 2010 pending on the file of the Additional Junior Civil Judge, Repalle.

Learned Public Prosecutor for the State of Andhra Pradesh would contend that when sufficient material is collected, during the course of evidence, the prosecution can file an application under Section 319 of the Cr.P.C., to issue process against them. If there is any material sufficient to proceed against the persons other than the accused already arrayed in the Sessions Case, no doubt, the power is conferred on the Court to try them for the offences by exercising its power under Section 319 of Cr.P.C. But when the proceedings were quashed at the stage of P.R.C., based on examination in chief of PW-1, the Court cannot again implead them as parties and it would directly amount to disobeying

the order passed by this Court in Crl.P.No.55 of 2011. Therefore, I find no substance in the contention of learned Public Prosecutor for the State and on the other hand, the issue of process against the petitioners by the trial Court by order under challenge, dated 26-02-2016 is an illegality committed by the trial Court in view of the order in Crl.P.No.55 of 2011. It is an abuse of process of law. Hence, the docket order under challenge, dated 26-02-2016 is liable to be set aside.

In the result, the Criminal Revision Case is allowed, setting aside the docket order passed in Crl.M.P.No.19 of 2016 in S.C.No.121 of 2014, dated 26-02-2016, by the Assistant Sessions Judge, Repalle.

The Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

August 29, 2017

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