

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2557 OF 2016

ORDER:

The revision petitioner is the defacto complainant and the revision respondents 1 to 8 are the accused in Crime No.194 of 2009 of Kachiguda Police Station, Hyderabad, which is outcome of private complaint filed before the learned IV Additional Chief Metropolitan Magistrate, Hyderabad, by the revision petitioner herein against the respondent Nos.1 to 8 herein. The learned Magistrate referred the same to the police for investigation under Section 156 (3) Cr.P.C in registering the Crime No.194 of 2009 on 30.07.2009 and therefrom after investigation, filed final report.

2) As per the expression of the Apex Court in *Dharam Pal vs State of Punjab*¹, the Court is not bound to accept the referred report or opinion of the police from investigation and even can differ if there is any material from the investigation and leave about the power of the Court, from the notice given to the defacto complainant to raise any protest petition therefrom to proceed as a private complaint procedure under Section 200 to 202 read with 190 Cr.P.C. In this case on hand, the learned Magistrate on the protest petition having earlier received the final report and not acted upon to take cognizance, from the private complaint procedure adopted in recording the sworn statement of the complainant and another witness and with reference to protest, observed that the investigation is perfunctory and improper and

¹ 2014 (3) SCC 306

there is prima facie accusation, however, so far as A1 is concerned and without saying anything about A2 to A8 and in particular A2 to A-7 even though the record shows the entity formed is by A1 to A7 together to attribute the acts. It is the same now impugned in the revision.

3) The order of the learned Magistrate dated 15.04.2014 in CrI.M.P. No.730 of 2104 (protest petition) is perfunctory without even discussion and how no case was made out against respondents 2 to 7 in particular besides respondent No.8—vendee from any of the respondents 1 to 7 and thereby the same is liable to be set-aside.

4) The contest of 8th respondent is that there is no material to proceed against accused No.8—vendee which is a company and not an individual and the individual cannot be impleaded for no vicarious liability for the acts of the company on an individual without specific overtacts attributed either from the investigation material or from the protest petition or private complaint or sworn statements.

5) Whereas it is the submission of the other respondents 2 to 7 that though the order of the lower Court does not in specific words state of no case made out against respondents 2 to 7, the taking of cognizance against respondent No.1 alone speaks that no case made out against them and mere non-assigning any reasons is not a ground to interfere with while sitting in revision, hence to dismiss the revision.

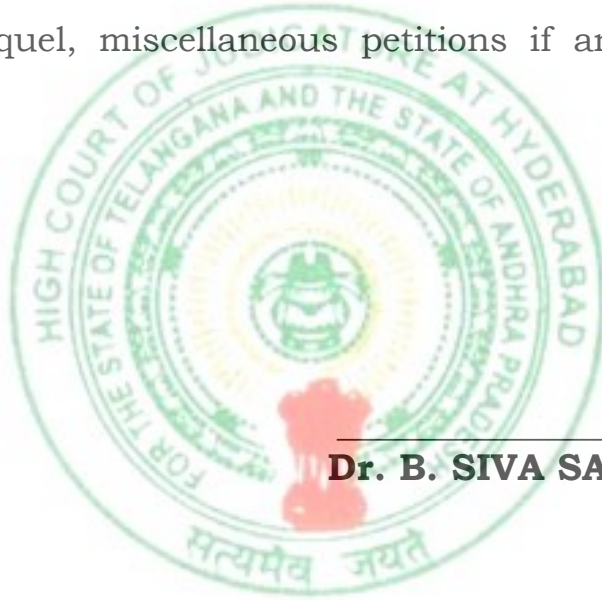
6) Heard and perused the material on record.

7) No doubt, the mere non-assigning of reasons itself is not a ground. However, once the material clearly points out and the order is perfunctory and even there is a single line of discussion as to how no case made out over the complicity of A.1 to A.7 alleged, so far as A.2 to A.7, thereby the order is liable to be set-aside.

8) Accordingly and in the result, the revision is disposed of and remitted back to the learned Magistrate to pass a detailed order from the material available on record after hearing the complainant.

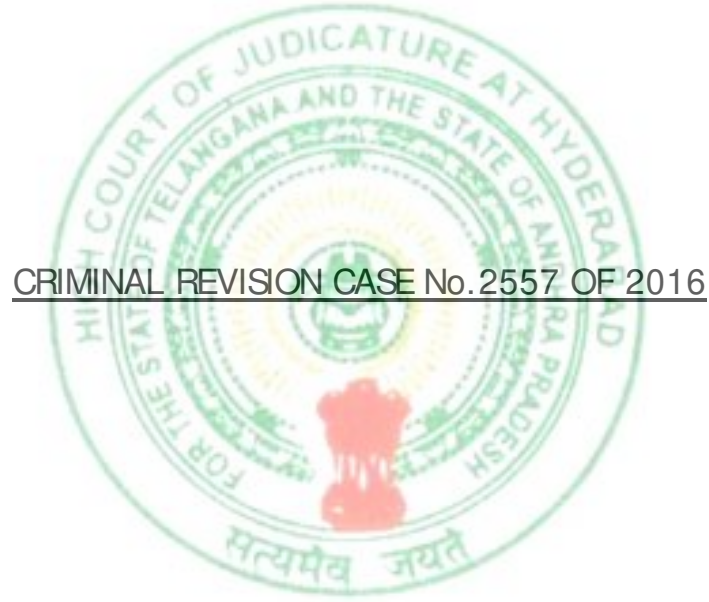
As a sequel, miscellaneous petitions if any pending shall stand closed.

Dt.20.02.2017
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Dr. B. SIVA SANKARA RAO, J

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Date:20.02.2017

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