

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.1710 of 2017

ORDER:

This revision is preferred under Sections 397 and 401 of Code of Criminal Procedure (fort short "Cr.P.C.") questioning the legality of the docket order dated 04.04.2017 passed in S.C.No.17 of 2014 by the District and Sessions Judge, Nellore, whereby the District Judge added the petitioners herein as accused Nos.3 and 5.

The case of the petitioners is that the Sub-Divisional Police Officer, Gudur filed charge sheet before Additional Judicial Magistrate of First Class, Kota, which is numbered as P.R.C.No.25 of 2013, wherein it is stated that there is *prima facie* material against accused Nos.1 and 2 to proceed against them for the offence punishable under Section 290 of I.P.C. and under Section 3 (1) (x) of S.Cs. and S.Ts (POA) Act, 1989 while observing that there was no evidence to show that accused Nos.3 to 5 involved in the crime, but the prosecution appears to have filed Crl.M.P.No.223 of 2017 to add accused Nos.3 to 5 also in the sessions case; the same was allowed and added accused Nos.3 to 5.

It is contended by the learned counsel for the petitioners that a separate reasoned order is required to be passed in Crl.M.P.No.223 of 2017, but without passing any reasoned order in Crl.M.P.No.223 of 2017 the impugned order dated 04.04.2017 to implied accused Nos.3 to 5 is illegal.

Learned Public Prosecutor for the State of Andhra Pradesh supported the impugned order.

As seen from the contents of the charge sheet, no material was found to proceed against accused Nos.3 to 5. Moreover, accused No.4 died during pendency of the Sessions Case, now accused Nos.3 and 5 are alive. But, the Sessions Judge instead of passing a reasoned order by following the principles laid down in “***Dharam Pal v. State of Haryana***¹” simply added the petitioners herein as accused Nos.3 and 5.

Hence, the impugned order is contrary to the principles laid down in “***Dharam Pal v. State of Haryana***” (referred supra). Therefore, the impugned order is hereby set aside while the Sessions Judge is directed to pass a reasoned order in Crl.M.P.No.223 of 2017 and proceed further.

In the result, the criminal revision case is allowed. The Sessions Judge is directed to pass a reasoned order in Crl.M.P.No.223 of 2017 and proceed further. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

23.10.2017
Ksp

¹ (2014) 3 SCC 306