

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.3050 of 2015

ORDER :

The petitioner/Accused of C.C.No.216 of 2014 on the file of IV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, taken cognizance of the offences punishable under Sections 500, 501, 503 and 506 IPC r/w. Section 109 IPC, which is the outcome of private complaint of the revision 1st respondent-defacto complainant, impugning the order dated 29.10.2015 of the learned Magistrate in CrI.MP.No.200 of 2014 in C.C.No.216 of 2014, the application filed under Section 205 Cr.P.C., to dispense with her appearance, by partially allowing it in directing personal appearance for examination under Sections 251 and 313 Cr.P.C., to that extent, having been allegedly aggrieved, maintained the present Criminal Revision Case.

2. It is the submission of the learned counsel for petitioner/Accused that the trial Court ought to have exercised the discretion vested in law once dispensed with the presence, including for Section 251 Cr.P.C., examination in directing personal appearance therein serves no purpose, when she wants to represent through an Advocate, thereby to that extent non-exercise of Judicial discretion properly vested is prone the recourse to revision, hence to revise the order.

3. Whereas it is the submission of the learned counsel for revision 1st respondent that what are the facts alleged in the year 2014 not shown even subsisting as on date muchless to continue, even the order and thereby there are no grounds to revise the order, that too, when the 1st respondent was allegedly working and not shown of working somewhere, but continuously at Nizamabad, for attending personal appearance under Section 251 Cr.P.C., examination, otherwise with no any inability or disability and thereby to dismiss the revision.

4. Heard both sides and perused the impugned order.

5. Once the Court below has chosen to exercise the discretion, but for Section 313 of Cr.P.C., examination is vital, if at all, to consider, to personally appear and answer, so far as Section 251 of Cr.P.C. examination is concerned, once instructed to represent through an Advocate in contesting the matter, it is once a formality for not a case of she is going to admit the alleged occurrence, there is no necessity of directing to appear personally for Section 251 Cr.P.C. examination.

6. The law, in this regard, by scanning several of the expressions of the Apex Court, laid down by this Court also in the recent past in Crl.R.C.Nos.1798 and 1799 of 2014, dated

09.09.2014, reported in VIJAY MALLYA v. GMR HYDERABAD INTERNATIONAL AIRPORT LTD. AND ANOTHER¹, apart from.

7. Accordingly, this Criminal Revision Case is allowed, to that extent, by making clear that the petitioner must personally appear for Section 313 Cr.P.C. examination to that she concedes.

8. As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed.

03.02.2017.
Msr

Dr. JUSTICE B. SIVA SANKARA RAO



¹ 2015 (1) ALD (Crl.) 93

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