

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.42807 of 2016

Order:

The petitioner herein is Accused No.4 in S.C.No.421 of 2016 pending on the file of VI Additional Sessions Judge, Anantapur at Gooty. The said case relates to an incident that took place on 31.03.2015 where one Chittem Vijaya Bhaskar Reddy was attacked and killed. Crime No.31 of 2015 was registered by the police of Peddavadugur Police Station against sixteen (16) accused. After investigation, the police filed charge sheet and the above case is pending. Now, the present Writ Petition is filed on the ground that, though LWs.5 to 12 in their statements made under Section 161 Cr.P.C., stated that four Directors were present in the office room, the police have deliberately not examined those persons, though their names were disclosed in the said statements. In the circumstances, the petitioner submitted a representation to the Hon'ble Chief Minister, Government of A.P., on 10.09.2016 for further investigation. On the said representation though the office of the Hon'ble Chief Minister ordered for further investigation, when the same was not taken up, the present Writ Petition was filed.

In the counter filed in the present case, it is stated that after the matter was referred to the third respondent, the third respondent obtained a legal opinion from the Assistant Public Prosecutor, Anantapur, who stated as follows.

“The accused has no right to seek further investigation of any criminal case pending against them. Sec.173(8) Cr.P.C., empowers only further investigation by the investigating agency which was investigated the case earlier but not reinvestigation or fresh investigation. Moreover the accused has no right to seek further

investigation into the case and it is purely the right of the investigating agency or the de facto complainant.”

It is also stated that the *de facto* complainant may seek further investigation, if fresh facts came to light or if any material is traced subsequently. Then only further investigation is desirable and that too with due permission of the Court in which the case is pending. It is also stated that the formal permission of the Court is essential for further investigation of any case and the Court must order further investigation basing on the material submitted to it.

Since this Court is satisfied with the said legal proposition, liberty is given to the petitioner to move concerned Court for appropriate directions.

With the above observation, the Writ Petition is closed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 19.01.2017
Nsr