

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.608 of 2017

JUDGMENT:

This criminal revision case, under Sections 397 and 401 of Cr.P.C., is filed questioning the propriety and legality of the order, dated 19-12-2016 passed in C.C.No.29 of 2016 by the XI Additional Chief Metropolitan Magistrate, Secundrabad, discharging A-1 to A-13/respondents 1 to 13 herein, for the offences punishable under Sections 429, 468, 471 read with 34 and 120-B of IPC.

The petitioner herein filed a private complaint against the respondents 1 to 13 herein making serious allegations to attract the offences punishable under Sections 429, 468, 471 read with 34 and 120-B of IPC and the date of offence as per the allegations made in the complaint was 28-12-2014 and examined three (3) witnesses before the XI Additional Chief Metropolitan Magistrate, Secundrabad on 11-11-2015, 25-11-2015 and 20-11-2015 in S.R.No4565 of 2015, which is the subject matter in Calendar Case.

The trial Court upon hearing the counsel, dismissed the petition on the ground that there is no material to proceed against the respondents/accused and since C.C.No.143 of 2016 is already pending for the same offences in Crime No.35 of 2015 of Begumpet Police Station, before the competent

Court, and that there is a civil dispute between the parties and discharged the accused.

Aggrieved by the order, the present revision is filed on various grounds.

During hearing, learned counsel for the petitioner/complainant contended that the offences allegedly committed by the respondents/accused on 28-12-2014 and 25-01-2015 are totally distinct and different. But the trial Court did not consider the material on record in proper perspective and requested this Court to set aside the order and direct the Magistrate to proceed further, in accordance with law.

Learned counsel for the respondents, Sri Mirza Nisar Ahmed Baig, supported the order in all respects while contending that this Court cannot exercise jurisdiction under Sections 397 and 401 of Cr.P.C., when the trial Court recorded its finding based on evidence available on record and prayed to dismiss the revision.

As per the allegations made in the complaint, the offence allegedly took place on 28-11-2014 and as per procedure prescribed under Sections 200 to 204 of Cr.P.C., the trial Court examined the complainant under Section 200 of Cr.P.C., and recorded the statement of complainant on 20-11-2015 and later took cognizance and recorded the statements of Mohd. Siraj as PW-1, on

11-11-2016, and statement of Shakira Begum as PW-2, on 25-11-2016. Based on these statements the Court exercised its power under Section 245 (1) of Cr.P.C. and discharged the respondents.

A bare look at the contents of the complaint and the statement of PW-1 recorded by the Magistrate under Section 200 of Cr.P.C., on 20-11-2015 clearly stated that he lodged a complaint with Station House Officer, Begumpet Police Station as concerned persons have manipulated the documents to claim the property of Morij Ahmed Khan, which he came to know after going through the remand case diary filed by Station House Officer, Begumpet Police Station in Crime No.35 of 2015. In that case, the Investigating Officer had seized the fraudulent GPA executed by A-1 to A-5 in favour of A-6 to A-13. In spite of the complaint the Police had not taken any action.

This piece of statement of PW-1 is suffice to through the complaint overhead. But still the Court took cognizance and proceed further, strangely, in the evidence PWs.1 and 2 spoke about the incident that took place on 25-01-2015 at about 11.00 A.M. and their evidence is totally silent with regard to the incident that allegedly occurred on 28-12-2014. In absence of proof of a particular fact, unless the evidence referred under Section 244 of Cr.P.C., establishes that it is a fit case to be proceeded by recording reasons and if no case

against the accused has been made out the Court has to discharge. Therefore, by exercising the powers conferred on the Court by Section 245 (1) of Cr.P.C., and having found no material to proceed against the accused based on the evidence, the Magistrate came to such conclusion and discharged the respondents for the offences punishable under Sections 429, 468, 471 read with 34 and 120-B of IPC.

Even before this Court they contended that the two incidents are different. The incident referred in Crime No.35 of 2015 is almost seven days subsequent to the date of incident to the present complaint but none of the witness did support the case of the complainant including the complainant. Therefore, the trial Court rightly exercised its power under Section 245 (1) of Cr.P.C., and this Court cannot exercise power of revision under Sections 397 and 401 of Cr.P.C., lightly, as I find no manifest perversity or apparent error in the order passed by the Court below. Consequently, the revision case is liable to be dismissed as I find no merits in the revision case.

In the result, the Criminal Revision Case is dismissed at the admission stage. 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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