

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.595 of 2017

ORDER:

Heard learned counsel for the petitioner/proposed accused No.4 of S.C.No.50 of 2013 for the offence punishable under Section 306 r/w.34 of IPC of Crime No.114 of 2011 on the file of Tadepalligudem Rural police station.

2. The police after investigation filed the final report in the form of charge sheet against three accused. The petitioner/proposed A.4 was not among the accused persons in the F.I.R. or charge sheet. After framing of charges for the offences supra, in the course of trial, from the evidence of P.Ws.1 to 5 examined, P.Ws. 2 to 4 did not support the prosecution and nothing could be elicited from their cross examination with permission under Section 154 of the Indian Evidence Act by the learned public prosecutor. Out of the listed witnesses of the charge sheet of Lws.1 to 18, including the official witnesses, for the lower court to pass the impugned order in CrI.M.P.No.67 of 2016, dated 07.10.2016 to array as 4th accused, what all from the evidence of P.Ws.1 to 4, P.W.1 is V.R.O., not even an eye witness, he did not even mention the names of the suspects but for named one accused A.1 and P.W.5 is not even witness to the occurrence and there is nothing even from her evidence, much less, to show any motive for the accused to the

deceased. Once such is the case there is no whisper, even name of the accused from the evidence of P.Ws.1 to 5 supra, the impleading of the petitioner as A.4 by the learned Sessions Judge is *per se* unsustainable, more particularly from the expression of the Constitution Bench of the Apex Court in ***Hardeep Singh vs. State of Punjab***¹ of what is required is besides from the face value of the accusation against the accused to be impleaded, something more than what is required the material for framing of a charge, when same is totally lacking in the case. Hence, the impugned order of the lower court is set aside and the proposed accused cannot be added as additional accused no.4 of the Sessions Case.

3. Accordingly, the criminal revision case is allowed. Miscellaneous petitions pending, if any, in this case shall stand closed.

DR.B.SIVA SANKARA RAO,J

23.03.2017
SS

¹ 2014 (3) SCC 92