

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2437 of 2016

ORDER :

Impugning the order dated 24.08.2016 in CrI.M.P.No.435 of 2016 in C.C.No.551 of 2014 passed by the Judicial Magistrate of First Class (Special Mobile), Nizamabad, Nizamabad District, on the application of the prosecution under Section 319 of Cr.P.C., from the evidence of the defacto-complainant as P.W.1, besides A.1 to A.3 charged, in taking cognizance against the additional accused A.4 to A.6, the present Revision is filed by A.4 to A.6.

2. Heard learned counsel for the revision petitioners/A.4 to A.6 *vis-à-vis* learned Public Prosecutor representing the State of Telangana and perused the impugned order and deposition of the witness, in particular.

3. Even from the equally 5-Judges Bench expression of the Apex Court in HARDEEP SINGH v. STATE OF PUNJAB AND OTHERS¹, reiterating the earlier 5-Judges Bench expression, but for explaining of DHARAM PAL v. STATE OF HARYANA², including from para Nos.105 and 116, drawn attention of this Court, what is required is cogent (strong) evidence accrues against the persons from the evidence let in before the Court, to exercise the power under Section 319 Cr.P.C., sparingly and not as a matter of course.

4. In the deposition of P.W.1, as stated specifically, the specific pleadings of A.4 to A.6, there is no even suggestion by contesting Accused Nos.1 to 3 from their cross-examination anything with

¹ (2014) 3 SCC 92

² (2014) 3 SCC 306

regard to omissions or contradictions from the statement or FIR, if any of the witnesses. No doubt, A.4 to A.6 were not there before the Court by the time P.W.1 deposed, including during the cross-examination supra.

5. Having regard to the above, it is difficult to say that the discretion exercised by the Court is outcome of impropriety or otherwise unsustainable, for setting aside by sitting against in revision. However, for the fact remains that even taken cognizance, from their right to participate and cross-examine, if they could show any material that they are entitled to seek for discharge, at any stage, as permitted by the provisions of law, besides any other remedies available to invoke and without prejudice to that right.

6. Accordingly and in the result, the Criminal Revision Case is dismissed, subject to above observations. Interim order granted by this Court on 28.09.2016 shall stand vacated. As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed.

Dr. JUSTICE B. SIVA SANKARA RAO

13.02.2017

Msr

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