

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.768 OF 2014

ORDER:

Heard the learned counsel for the petitioners. There is no representation on behalf of first respondent.

The present Criminal Revision Case is filed questioning the orders passed in CrI.R.P.No.166 of 2013, dated 21.03.2014 on the file of the Court of IV Additional Metropolitan Sessions Judge, Nampally, Hyderabad.

The facts, in brief, are that the first respondent herein filed a complaint vide C.C.No.1594 of 2007 on the file of VIII Additional Chief Metropolitan Magistrate, Hyderabad for the offences under Sections 420, 466, 468 and 193 I.P.C. against the petitioners herein and the second respondent herein. During the pendency of the C.C., the petitioners herein filed CrI.M.P.No.2953 of 2012 under Section 245(2) of Cr.P.C. seeking discharge from the charges framed against them. The learned Magistrate, after hearing the parties and appreciating the material on record, allowed the said petition by orders dated 01.04.2013. Aggrieved by the same, the first respondent herein filed CrI.R.P.No.166 of 2013 on the file of the Court of IV Additional Metropolitan Sessions Judge, Hyderabad. The learned Sessions Judge, after hearing the first respondent herein, as revealed from the impugned order, allowed the CrI.R.P.No.166 of 2013, by orders dated 21.03.2014. Aggrieved by the same, the present Criminal Revision Case is filed.

The learned counsel appearing for the petitioners mainly contended that the petitioners were not put on notice in CrI.R.P.No.166 of 2013. Since notice is not issued and as the petitioners were not allowed to participate in the proceedings, the order under revision is not sustainable in law. Therefore, basing on the said submissions, this Court is not inclined to go into the merits of the case.

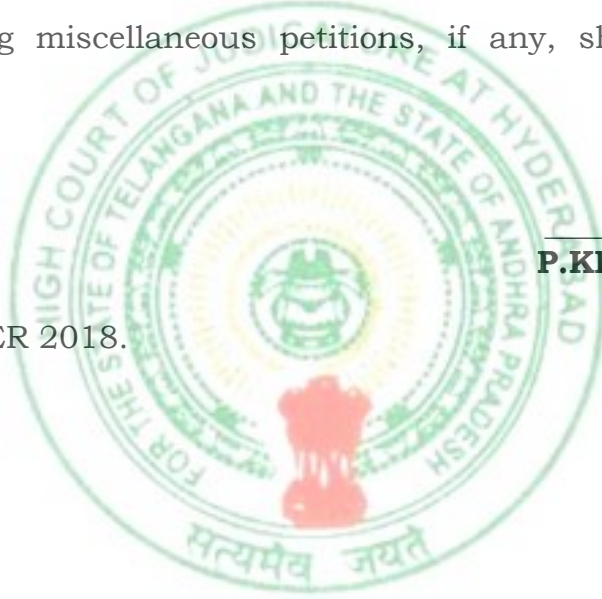
Having heard the learned counsel and from the perusal of the material on record particularly, the impugned order, it is revealed that the learned Metropolitan Sessions Judge heard the counsel for the first respondent herein and has not mentioned as to whether any notice has been issued to the petitioners herein and if issued, on service of the same, whether the petitioners have engaged any counsel or not. From the impugned order, the said aspect is totally missing. When the petitioners were not issued any notice enabling them to engage the services of a counsel, in the impugned order it cannot be observed that on behalf of the petitioners, it was argued that the impugned orders therein do not call for any interference and both sides submitted oral arguments, which is quite contrary to what is referred to above. The said observation appears to be contrary to what is mentioned by the learned Sessions Judge in the initial portion of the order. When notice is not served, this Court is of the opinion that the valuable rights and interests of the petitioners would be seriously prejudiced and also amounts to violation of principles of natural justice. Though notice is served on the first respondent and having engaged the services of a counsel in the present revision, there is no representation on his behalf. In these circumstances,

this Court deems it appropriate to set aside the impugned orders and remit the matter to the Court below for fresh consideration.

Accordingly, the Criminal Revision Case is allowed setting aside the orders dated 21.03.2014 in CrI.R.P.No.166 of 2013 on the file of the Court of IV Additional Metropolitan Sessions Judge, Hyderabad. The learned IV Additional Metropolitan Sessions Judge, Hyderabad is directed to dispose of CrI.R.P.No.166 of 2013 afresh after issuing notices to all the concerned, in accordance with law.

Pending miscellaneous petitions, if any, shall also stand closed.

10th OCTOBER 2018.
Tsr



P.KESHA VA RAO,J