

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.1552 of 2017

ORDER:

This Criminal Revision Case is filed by the petitioner/*defacto* complainant aggrieved by the order dated 15.03.2017 in CC SR No.4609/2015 on the file of II Metropolitan Magistrate, Cyberabad at L.B.Nagar, dismissing the aforesaid CCSR on the main ground that complaint was not maintainable as per law in view of non-compliance of Section 340 r/w 195 Cr.P.C.

2) Heard the petitioner/*defacto* complainant, who appeared as party-in-person and learned Additional Public Prosecutor for the State (Telangana).

3) The point for determination is:

*“Whether there are merits in the **Crl.R.C.** to allow?”*

4) **POINT**: As can be seen, the petitioner herein/*defacto* complainant filed CC SR No.4609/2015 against four accused for the offences under Sections 182, 191, 192, 193, 200, 209, 211, 228, 406, 499, 500 and 120-B IPC. His grievance is that the Accused 1 to 3 committed aforementioned offences by filing a false case against the complainant in CC No.273/2014 (old CC No.106/2013) on the file of VI Special Magistrate, at Hasthinapuram, Ranga Reddy District and Accused No.4, who is the Investigating Officer in the said case did not investigate the case at all but filed the charge sheet without any justification. Ultimately, C.C.No.273/2014 ended in acquittal as per the

judgment dated 15.04.2015. Hence the complainant/accused filed CC SR No.4609/2015.

5) Coming to the impugned order, the Court of II Metropolitan Magistrate, Cyberabad at L.B.Nagar, dismissed the complaint holding that in respect of certain offences mentioned in the complaint, the procedure contemplated under Section 340 Cr.P.C r/w 195 Cr.P.C was not followed. Further, A.4, who is the police officer, has got protection for the action taken in good faith in discharge of his duties. The said dismissal order is now under scrutiny.

6) It should be noted that out of the different offences mentioned in the complaint, the offences under Sections 182, 193, 200, 209, 211 and 228 IPC are governed by certain procedural rigmaroles for taking cognizance. For instance, cognizance of the offences under Sections 193, 200, 209, 211 and 228 IPC depends on the procedure contemplated under Section 340 Cr.P.C r/w 195 Cr.P.C. Similarly, cognizance of the offence under Section 182 IPC is governed by Section 195 Cr.P.C. There can be no demur that cognizance of the offences covered under above Sections cannot be taken without following the procedure contemplated under Sections 340 and 195 Cr.P.C. In the impugned order, the learned II Metropolitan Magistrate, Cyberabad at L.B.Nagar, has no doubt concisely reiterated the said fact. However in my considered view, jurisdictional infraction was occurred in the said order and thereby the said order is liable to be set aside.

7) As per Section 340 Cr.P.C, an application has to be filed for conducting an enquiry in respect of an offence referred in Section 195 (1)(b) Cr.P.C in the

Court in which such offence was committed. According to the complainant, the complaint mentioned offences were all committed by the accused in C.C.No.273/2014 (old C.C.No.106/2013) on the file of VI Special Magistrate, at Hasthinapuram, Ranga Reddy District. Therefore, it is trite law as per Section 340 Cr.P.C that the CC SR No.4609/2015 should have been enquired and a reasoned order being passed by the Court of VI Special Magistrate at Hasthinapuram but not II Metropolitan Magistrate, Cyberabad at L.B.Nagar. Therefore, the impugned order is liable to be dismissed for violation of Section 340 Cr.P.C. In that view, the merits of the impugned order passed by the learned II Metropolitan Magistrate, Cyberabad, at L.B.Nagar, need not be discussed.

7) In the result, this Criminal Revision Case is allowed and the impugned order dated 15.03.2017 in CC SR No.4609/2015 on the file of II Metropolitan Magistrate, Cyberabad at L.B.Nagar, is set aside and said Court is directed to transfer the file relating to CC SR No.4609/2015 to the Court of VI Special Magistrate, at Hasthinapuram, Ranga Reddy District, under intimation to the learned Principal District and Sessions Judge, Ranga Reddy District, for disposal on merits by the VI Special Magistrate, at Hasthinapuram, Ranga Reddy District, after hearing the complainant.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 08.08.2018

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