

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1800 of 2018

ORDER:

Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the respondent-State.

The present revision case is filed questioning the docket order, dated 06.06.2018 passed in C.C.No. 18 of 2016 on the file of the XV Metropolitan Magistrate, Cyberabad at Medchal, directing the petitioners herein to appear before the Court by the next date for further proceedings i.e. on 31.07.2018.

The facts of the case are that the de facto complainant filed a private complaint before the XV Metropolitan Magistrate, Cyberabad at Medchal. The same was referred to the police under Section 156(3) Cr.P.C. The police registered the crime vide FIR No.586 of 2015 for the offences under Sections 498-A, 494, 420, 506 IPC r/w section 34 IPC against A-1, A-2, A-8 and A-9. After completing investigation, police filed the charge sheet dt.29.12.2015 on 13.01.2016 against A-1 alone for the offences under Sections 498-A, 494, 420 and 506 IPC. The Court has taken the cognizance of the offences against A-1 and numbered the case as C.C.No.18 of 2016. In the charge sheet it is clearly mentioned that the evidence collected from the witnesses does not establish involvement of A-2 to A-4 in the commission of the offences. Subsequently, the police examined the de facto complainant and recorded the statement on 2.8.2016 and thereafter filed a

memo on 10.08.2016 before the Court below seeking permission to reopen the case and investigate the matter. The Court vide orders dated 26.08.2016 permitted the police to further investigate the case. LW-1 was reexamined and also examined the bank officer as LW-14 and seized some documents from the possession of A-1 on 30.08.2016. Thereafter, they filed the additional charge sheet against A-2 to A-9. The Court below accepted the said additional charge sheet and taken cognizance of the offences under Sections 494, 420, 201 r/w 109 IPC against the petitioners. Questioning the same, the petitioners and others filed Crl.R.C.No.2412 of 2016 in this Court. After hearing, this Court found that the docket order does not contain any reasons and accordingly set aside the docket order directing the Court below to pass orders showing application of mind to the case while taking cognizance of the case against the petitioners. Subsequently, the Court below has passed docket order on 02.05.2017 taking cognizance with a reasoned order. Against the said taking of cognizance vide docket order dated 2.05.2017, the petitioners 1, 2 and 3 to 5 filed Crl.R.C.Nos.1704 of 2017 and 1994 of 2017 in this Court and obtained stay of all further proceedings including the appearance of the petitioners. The stay is still in operation. During the course of proceedings, it appears that on 6.6.2018 the Court below entertained the matter and passed the following order:

“A-1 is present. Other accused are absent. No order is filed to show that stay is extended for A-3, A-4 and A-7 to A-9 as ordered earlier by the Hon’ble High Court is CrlRCMP No.2735 of 2017 in CrL.R.C.No.1704 of 2017, dated 05.07.2017.

As per the judgment of the Hon’ble Apex Court in CrL.Apl.No.1375-1376/13, dt.28.03.2018, as circulated by the Hon’ble High Court vide circular ROC No.2573/OPCell, dated 18.04.2018, the stay beyond (6) months will automatically lapse, unless it is extended. Since, no order is filed to show stay is extended, A-3, A-4, A-7 to A-9 are directed to appear by next date for further proceedings. Call on 31.07.2018.”

The learned counsel appearing for the petitioners contended that the judgment of the Apex Court in CrL.Apl.No.1375-1376/13, dt.28.03.2018, as circulated by this Court vide circular ROC No.2573/OPCell, dated 18.04.2018 would indicate that the stay beyond six months from the date of passing of the criminal appeal will automatically lapse unless it is extended. Therefore, in the light of the said orders and circular issued by this Court, the docket order, dated 06.06.2018, is liable to be set aside.

Learned Public Prosecutor appearing for the respondent-State, clearly conceded that the docket order dated 06.06.2018, will not sustain since six months period shall be computed from the date of order passed by the Apex Court.

Having heard both the counsel and perusal of the material on record, it is revealed that the docket order dated 06.06.2018 directing the petitioners herein to appear by the next date of hearing for further proceedings, cannot be sustained in the light of the orders passed by the Apex Court in CrI.Apl.No.1375-1376/13, dt.28.03.2018, as circulated by this Court vide circular ROC No.2573/OPCell, dated 18.04.2018 since the time has to be computed only from the date of the order. In these circumstances, this Court feels it appropriate to set aside the docket order, dated 06.06.2018.

Accordingly, the criminal revision case is allowed setting aside the docket order, dated 06.06.2018 passed in C.C.No. 18 of 2016 on the file of the XV Metropolitan Magistrate, Cyberabad at Medchal, directing the petitioners herein to appear before the Court by the next date for further proceedings i.e. on 31.07.2018.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 12.07.2018.
ccm

HON'BLE SRI JUSTICE P. KESHA VA RAO



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Date:12.07.2018

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