

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE No.3132 OF 2018

ORDER:-

This Criminal Revision Case is filed by the petitioner/ D.Naveen Chand/accused No.2 in C.C.No.434 of 2017 seeking for setting aside the order, dated 27.07.2018, passed in CrI.M.P.No.466 of 2017, by the learned VIII Additional Chief Metropolitan Magistrate, Gajuwaka, which was filed under Section 239 Cr.P.C.

2. The learned Magistrate has dismissed the application filed by the petitioner/A-2 under Section 239 Cr.P.C., on the grounds that the Investigating Agency has investigated the matter and filed charge sheet against the petitioner/A-2 and at this stage, the Court cannot go into the truth and veracity of the evidence. As there is *prima facie* material against the accused, accused No.2 cannot be discharged.

3. Heard the arguments of the learned counsel for the petitioner/A-2 and the learned Public Prosecutor appearing for respondent No.1/State.

4. Learned counsel for the petitioner/A-2 submits that the petitioner/A-2 in C.C.No.434 of 2017 is innocent and he is falsely implicated in this case; that accused No.1/Kaki Prakash Reddy has filed a suit against the *de facto* complainant in O.S.No.145 of 2007, which is pending on the file of the Additional Senior Civil Judge, Gajuwaka, and that A-1 and his men tried to remove the trees and encroach into the schedule property in Sy.No.46/4. On

a complaint, a case was registered against A-1 along with A-2 without there being any involvement of A-2.

5. Learned counsel for the petitioner further submits that the *de facto* complainant has addressed a letter, dated 05.10.2015, to the Zonal Manager, Visakhapatnam to issue a letter to the Station House Officer, Gajuwaka for withdrawing the name of the petitioner/A-2 from the complaint lodged earlier. The *de facto* complainant also addressed a letter, dated 24.06.2016, to the learned Public Prosecutor, III Additional Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam requesting to take necessary steps for withdrawing the complaint against the petitioner/A-2, as there is no material against the petitioner/A-2 for framing charges.

6. Learned Public Prosecutor submits that there is sufficient material for framing charges against the petitioner/A-2 and therefore, there are no valid grounds to interfere with the order passed by the trial Court.

7. Having regard to the facts and circumstances of this case, no doubt, the *de facto* complainant addressed a letter to the Zonal Manager, Visakhapatnam *vide* letter, dated 05.10.2015, and also to the learned Public Prosecutor, dated 24.06.2016, informing them that the *de facto* complainant intends to withdraw the case against the petitioner/ A-2.

8. Learned Public Prosecutor has not taken any steps for withdrawal of the case against the petitioner/A-2. At the same

time, the *de facto* complainant has also not filed any petition before the trial Court for withdrawing the case against the petitioner/A-2.

9. It is obvious that the charges framed against the accused are for the offences punishable under Sections 427 and 447 read with 34 I.P.C., which are punishable with less than three years imprisonment, and they are compoundable offences. Learned counsel for the petitioner/A-2 submits that the trial Court may be directed to refer the matter to Lok Adalat for settlement between the parties, as the offences are compoundable in nature.

10. As this Court is of the view that there are no grounds to interfere with the orders passed by the trial Court for discharge and since the petitioner intends to settle the matter before the Lok Adalat, the trial Court is directed to refer the matter to the Lok Adalat for settlement, as the offences are compoundable in nature.

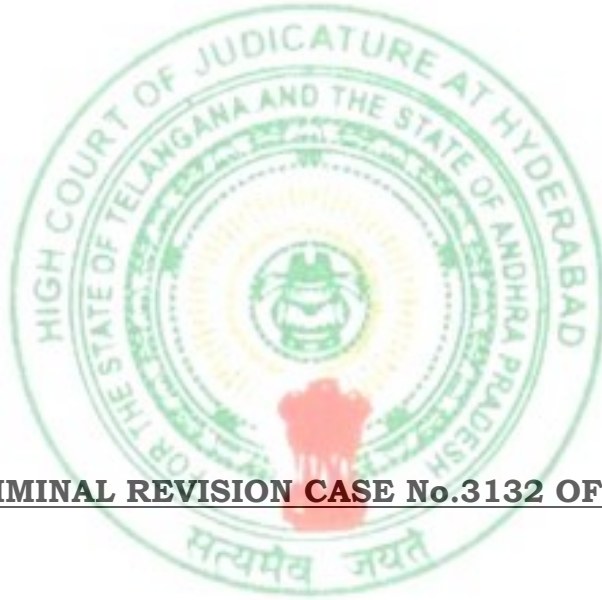
11. With the above observation, this Criminal Revision Case is disposed of.

12. Miscellaneous Petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE GUDISEVA SHYAM PRASAD

Date : 26.11.2018
AMD

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



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Dated: 26.11.2018

AMD