

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.10 of 2019

ORDER :

The petitioner is A.1. The 2nd respondent is proposed to be arrayed as accused in S.C.No.1 of 2018. The petitioner/A.1 during trial of the Sessions Case supra, filed the application under Section 319 Cr.P.C. requesting the trial Judge to implead the proposed accused/2nd respondent herein as co-accused to the trial saying PW.14 in his evidence categorically deposed about it. In the impugned order running in 12 pages with 13 paras, particularly at page 7 para 12 extracted the evidence of PW.14, in its conclusion of it is only sheer hearsay and it is not sufficient to array a non accused as accused based on it. Same is impugned saying the trial Judge did not properly appreciate the facts and scope of law.

2. Learned counsel for the petitioner is seeking to set aside the said order and to direct the trial Court to implead the 2nd respondent as co-accused to the sessions case to face trial.

3. Learned counsel for the proposed accused/2nd respondent opposed the same saying there is nothing to interfere with the impugned order of the trial Court, more particularly in the teeth of the law laid down by the Constitution Bench of Apex Court in **Hardeep Singh v. State of Punjab**¹

4. Heard and perused the material on record.

¹ AIR 2014 SC 1400

5. A perusal of the order of the lower Court in detail, no way requires any interference for this Court while sitting in revision, for no illegality or impropriety and more particularly from the Constitution Bench expression of the Apex Court in Hardeep Singh supra, saying to array a non-accused as accused. It is not even the material sufficient to frame charge, but from the evidence something more and that is lacking. As per the conclusion arrived by the trial Judge, there is nothing to interfere, but for to say if at all in future there is any sustainable material, there is no bar for making a request as discretion is left with the trial Judge to array any accused or not and any application is only bringing to the notice of the Court any facts situation of the existence of such standard of evidence on record.

6. With these observations, the criminal revision case is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15th February 2019

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