

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL REVISION CASE No.2653 of 2015

ORDER:

This Criminal Revision Case is filed by the petitioner/informant/Accused No.5 aggrieved by the issuance of Summons by the Addl. Judicial Magistrate of First Class, Asifabad in C.C. No.490 of 2007 directing him to appear and depose as prosecution witness in the above case.

2. The brief facts of the case are that the Vice-President of Singareni Collieries Co-Operative Employees Credit Society, by name, Doli Sudhakar (petitioner herein) along with two others lodged a complaint on 07.06.1999 against A1 to A3 and A7 regarding misappropriation of the funds of the Society and purchasing of plots at Hyderabad on benami names. Basing on that, a case was registered vide Crime No.57 of 1999 for the offences under Sections 409, 420, 467, 468 and 120(B) IPC by Rebbana Police. On their investigation, the police found that the complainant also conspired with others in embezzlement of funds and violated the laws of the Society and misappropriated an amount of Rs 33,90,500/- and filed Charge Sheet against A1 to A6, showing the complainant as A5. On taking cognizance of the offence, the Addl. JFCM issued summons to the complainant, who was cited as LW.1 during the course of trial.

3. Aggrieved by the same, the petitioner filed this revision contending that the summons issued by the Court directing him to appear and depose as prosecution witness was illegal, irregular and contrary to law, the Court ought to have seen that the Investigating Officer having arrayed the petitioner as A5 erred in mentioning the name of the petitioner as LW 1 in its final report, the Court ought not to have issued summons to the petitioner as it was against the fundamental right of the petitioner not to be compelled to depose against himself in any criminal proceedings as enshrined in Article 20 (3) of the Constitution of India and the same was also contrary to proviso (a) of Section 315 of Cr.P.C., and prayed to allow the Petition.

4. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor and perused the material available on record.

5. The Charge Sheet would disclose that the petitioner was arrayed as A5 and he was also shown as the complainant – LW.1. Summons were issued to him to depose as a witness in the capacity of LW 1. The object of Article 20 (3) is to protect the accused from self-incrimination. Right to silence was available to him. He can claim immunity from testifying in the case and refuse to answer the questions which tend to incriminate him. Hence, it is considered fit to direct the trial Court to ignore LW.1 being examined as a witness and to proceed with the case by examining the other witnesses and to complete the trial.

6. In the result, the revision case is allowed by setting aside the summons issued by the Additional Judicial Magistrate of First Class, Asifabad in C.C. No. 490 of 2007 to the petitioner, who was arrayed as A5.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

October 28, 2021

KTL