

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

CRIMINAL REVISION CASE No.682 of 2022

ORDER :

This revision is filed against the order dated 23.08.2022 in CrI.M.P.No.1929 of 2022 in C.C.No.64 of 2016 on the file of the Additional Judicial Magistrate of First Class, Bhongir.

2. Heard learned counsel for the petitioner and the learned Assistant Public Prosecutor Sri S.Ganesh, appearing for the 1st respondent-State.

3. The accused filed a petition before the trial Court under Section 258 of Cr.P.C. to discharge him from the above said case. It is the case of the petitioner that a charge sheet was filed against him for the offences punishable under Sections 427 and 506 of IPC, basing on the complaint/report of LW-1/Dontha Bharath Kumar, for which, a case was registered in Crime No.159 of 2015 on 14.07.2015, mentioning the date of offence as 02.07.2015 at 3.00 p.m. at Ramnagar, Bhongir town. It is the specific contention of the petitioner before the trial Court that as on the date of the alleged offence, he went to Jeddah in Saudi Arabia and that he was

falsely implicated in the case and that the original passport of the petitioner disclose the dates of his departure from India as well as arrival in India. Accordingly, he prayed to discharge him from the offences charged as he was falsely implicated in the case, though he was not in the country as on the alleged date of offence.

4. A detailed counter affidavit was filed by the Assistant Public Prosecutor before the trial Court opposing the application. The trial Court, after considering the rival contentions and the oral and documentary evidence on record, has dismissed the said petition. Aggrieved of the said order, this revision is filed.

5. During the course of arguments, learned counsel for the petitioner has filed the original passport. It is the specific contention of the learned counsel for petitioner that even as per the report given by the *de facto* complainant, the FIR and the charge sheet, the date of offence is 02.07.2015 at 3.00 p.m. As per the entries in the passport, the petitioner left to Jeddah of Saudi Arabia on 09.07.2014 from Mumbai Airport and arrived at Hyderabad on 06.07.2015. It clearly shows that the petitioner was not in India on

the date of alleged offence i.e. 02.07.2015, and therefore, he has prayed to discharge him from the said case.

6. On the other hand, it is contended by the learned Assistant Public Prosecutor Sri S.Ganesh that though the date of offence is mentioned as 02.07.2015 in the complaint, FIR and the charge sheet, the statements of witnesses recorded by the investigating officer disclose the date of offence as 12.07.2015, on which date, the accused was very well present in India and had committed the offence. Hence, he prayed to dismiss the revision.

7. The genesis for registering the case against the petitioner is the report preferred by the *de facto* complainant stating that on 02.07.2015 in the afternoon at 3.00 p.m., the petitioner along with two others, went to their house and damaged his bathroom in front of the house with crow bars and spades. Admittedly, the investigating officer, at the time of filing the charge sheet, deleted the names of A-2 and A-3 and charge sheet is filed only against the petitioner herein/A-1 for the offences under Sections 427 and 506 of IPC. As the passport itself clearly discloses that the petitioner

was not in India as on the date of alleged offence i.e. 02.07.2015, this Court believes that a false case has been foisted against him. Furthermore, the statements of witnesses recorded under Section 161 Cr.P.C. can only be used for corroboration or contradictions, but not for main genesis of the case. Therefore, considering the *alibi* taken by the petitioner/A-1, this Court is of the considered view that it is a fit case to discharge him from the case.

8. In the result, this revision case is allowed and the impugned orders are set aside. Consequently, the proceedings in C.C.No.64 of 2016 on the file of Additional Judicial Magistrate of First Class, Bhongir, are hereby quashed. The original passport of the petitioner is returned to his Counsel in the open Court.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 24.02.2023

ajr