

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL REVISION CASE No.705 of 2022

O R D E R:

This Criminal Revision Case is filed by the petitioner/de-facto complainant to set aside the order dated 07.09.2022 in CrI.M.P.No.375 of 2022 in S.C.No.45 of 2021 passed by the learned Sessions Judge at Nizamabad.

2. The facts in brief, as can be seen from the record available before the Court are as under:

a) The de-facto complainant has lodged a complaint on 19.07.2019 at 8.00 PM before the Velpoor Police Station alleging that on 19.07.2019 at 5.00 PM her uncle Bandari Muttehnna received a phone call from Lakkora Sarpanch Vamshi, R/o. Lakkora Village in which he informed that her mother namely Gothrala Laxmi, W/o. Yadagiri, Aged 45 years was murdered by some unknown persons at Thelu Shankar agricultural fields towards Govindpet road. On that the de-facto complainant along with her husband Santosh and her uncle Muthenna and others came to the said place and found

that the hands and legs of her mother were tied and she was beaten with sticks on head. It is further alleged that her mother (deceased), who is staying alone in the Lakkora Village, has called her 10 days back and told that one year back one Thelu Shankar borrowed Rs.3 lakhs from her on interest for his daughter's marriage and when she went to his house to ask the amount, Shankar and his wife both quarrelled with her mother (deceased) and threatened that if she again asks the amount, they would kill her.

b) Based on the said complaint, a case in Crime No.64 of 2019 was registered for the offence Under Section 302 read with Section 34 of the Indian Penal Code. After completion of investigation, charge sheet was filed against Thelu Shankar and his wife i.e., the respondents - accused herein for the offence under Section 302 read with Section 34 of the Indian Penal Code. The case was taken on file and numbered as S.C.No. 45 of 2021.

c) The petitioner /de-facto complainant has filed a petition vide CrI.M.P.No.375 of 2022 along with a village people

resolution, dated 20.07.2018 under Section 91 of the Code of Criminal Procedure with a prayer to issue summons to Village Development Committee and Gram Panchayath of Lakkora Village of Velpur Mandal to produce original document dated 20.07.2019 executed by VDC, Grampanchayath and Sarwa Samaj of Lokkora Village, which is relevant to this case. It is alleged in the petition that the document dated 20.07.2018 reveals that as the VDC Grampanchayath and Sarwasamj directed accused Nos.1 and 2 – respondents to provide compensation to the family of the deceased i.e., Gothrala Laxmi in view of the loss sustained by the family of the deceased due to the acts of the accused. The said document was executed by VDC Grampanchayath and Sarwasamj on the next day of the offence committed by accused Nos.1 and 2 as alleged by the prosecution. LW4 Rajlolla Vamshi Krishna has signed on the said document, which lies in custody of VDC Grampanchayath and Sarwasamj of Lakkora Village of Velpoor Mandal. Therefore, the original document is necessary to confront the same to the witness and to strengthen the case of the prosecution.

Therefore, prayed the Court to issue summons to Village Development Committee and Gram Panchayath of Lakkora Village of Velpur Mandal to produce original document dated 20.07.2019 executed by VDC, Grampanchayath and Sarwa Samaj of Lokkora Village.

d) On the other hand, the respondents – accused have filed counter contending that the petition is not maintainable either on facts or in law. VDC, Grampanchayath and Sarwa Samaj Committees are unconstitutional bodies, which are maintaining parallel government in the villages illegally. The de-facto complainant is acting under the advice and direction of LW4 (Rajlolla Vmashi Krishna), who has created the present document in collusion of some inimical person in the village against the accused and handed over to PW1 to call for the said document. If at all the de-facto complainant was in her possession, she could have handed over the same to the Police during the course of investigation, which did not reveal about the said resolution in entire investigation. The de-facto complainant did not even state about the said resolution in her statement recorded under Section 161 of

the Code of Criminal Procedure. The alleged resolution created by LW4 without the signatures of accused is not binding on the accused. Moreover, the Photostat copy of the resolution reveal that resolution is no way concerned and shall not affect the case registered by Police and the Police can continue the case. LW4, who is the Sarpanch of the Village alone is forcing the accused to pay amount of Rs.10 lakhs apart from facing the present charges without any reason or valid cause and finally prayed to dismiss the petition.

3. The trial Court after hearing both sides, has dismissed the said petition. Aggrieved by the same, the de-facto complainant – accused has filed the present criminal revision case, on the following grounds:

- i) The order passed by the trial Court is illegal, improper and contrary to the evidence on record.
- ii) The trial Court ought to have called the document dated 20.07.2019, which is a crucial document, by issuing summons to the Village Development Committee and Gram

Panchayath of Lokkora Village of Velpur Mandal, Nizamabad District and Sarwa Samaj of Lokkora Village, though the petitioner stated about the said document at the time of her evidence.

4. Heard Sri V. Satyam Reddy, learned counsel for the petitioner, Ms.Ch. Shravani, learned counsel appearing on behalf of Sri V. Raghunath, learned counsel for the respondent Nos.1 and 2 and Sri T.V.Ramana Rao, learned Additional Public Prosecutor for the respondent No. 3 – State.

5. Now the point for consideration is:

Whether the order dated 07.09.2022 in CrI.M.P.No.375 of 2022 in S.C.No.45 of 2021 passed by the learned Sessions Judge at Nizamabad is liable to be set aside?

6. The petitioner before the trial Court has filed petition under Section 91 of the Code of Criminal Procedure, which reads as under:

“91. Summons to produce document or other thing.

(1) Whenever any Court or any officer in charge of a police station considers that the

production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed-

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891) or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority."

7. In order to invoke Section 91 of the Code of Criminal Procedure for summoning of a document, the Court has to satisfy that summoning of document is necessary or desirable for the purpose of trial. In the case on hand, according to learned Additional Public Prosecutor, the document, which is sought to be called from Village Development Committee and Gram Panchayath of Lakkora

Village of Velpur Mandal is alleged resolution document dated 20.07.2019 executed by VDC, Grampanchayath and Sarwa Samaj of Lokkora Village directing respondents – accused Nos.1 and 2 to pay Rs.10 lakhs to be paid to the family of the deceased.

8. Learned counsel for the respondents – accused has submitted that even if such document is existing, there is no signature of accused persons on the said resolution accepting the liability of payment of Rs.10 lakhs to the family of the deceased. Even otherwise, the issue before this Court is not whether family of the of the deceased has to be given Rs.10 lakhs and if so, who has to pay. The issue before the court, which is required to be tried is whether the prosecution is able to prove beyond all reasonable doubt that the accused has committed the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. Basing on the said document, which is proposed to be called for, it cannot be said that the accused have committed the offence. Therefore, as long as the document, which is sought to be marked is relevant and necessary for establishing the charge

alleged against the accused and helps either the prosecution or the defence, the same cannot be called for. The trial Court in its wisdom has arrived at a correct conclusion and therefore, the present revision case for setting aside the order passed by the trial court cannot sustain.

8. Accordingly, the criminal revision case is dismissed.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 09-01-2023
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