

1 Crl.R.P.No.1/2017
IN THE COURT OF THE JUDGE, FAMILY COURT CUM ADDL. SESSIONS
JUDGE :: AT :: KARIMNAGAR

PRESENT: Smt. P.V.P. Lalitha Siva Jyothi,
JUDGE, FAMILY COURT,-CUM-
ADDL.DISTRICT&SESSIONS JUDGE,
KARIMNAGAR.

Friday, this the 15th day of December, 2017

CRIMINAL REVISION PETITION No. 1 of 2017

In
Cr.M.P.No. 2010 of 2010

in

CC.No. 409 of 2009

Between:-

Vemula Vittal s/o Hanmayya, age: 61 yrs, occ: Rtd RTC Employee r/o
Laxminagar, Karimnagar, now residing in Hyderabad.

**... Revision Petitioner/Accused
And**

The State through SHO PS Karimnagar-I town
R/by APP Sessions court, Karimnagar.

.... Respondent/Complainant

**(Crl. Revision from the order of the court of JMFC, (Spl. Mobile)
Karimnagar passed in Cr.M.P.No. 2010 of 2010 in CC.No. 409 of 2009 dt:
15-12-2016).**

Between:-

Vemula Vittal.

...Petitioner/accused

And

The State through SHO PS Karimnagar (I) town.

... Respondent/Complainant

REVISION PETITION U/Sec. 397(1) Cr.P.C.

This petition coming on 06-12-2017 for final hearing in the presence of
Sri M.Sachidananda Rao, Advocate for the Revision Petitioner upon perusing
the material papers on record, having been heard and having stood over for
consideration till this day, the court delivered the following:-

:: ORDER ::

The present Revision Petition is filed under Section 397(1) Cr.P.C. against the Order of lower Court passed in Cr.M.P.No. 2010 of 2010 in CC.No. 409 of 2009 dt: 15-12-2016, wherein the trial Court dismissed the petition filed by the petitioner to reject the complaint and charge sheet as not maintainable.

2. Factual matrix leading to the filing of the revision petition is as follows:-

That one Vemula Rajesham and six others filed a joint complaint before the learned AJMFC Karimnagar for the offence punishable U/Sec. 420, 406, 506 IPC against the accused U/sec. 200 Cr.P.C. and the same was referred to the police Station Karimnagar I town U/sec. 156 (3) Cr.P.C. for investigation and report and the police registered the case and after completion of investigation filed charge sheet and basing on charge sheet the learned Magistrate had taken cognizance of the offence against the accused and being aggrieved by the same, he filed a petition in Cr.M.P.No. 2010 of 2010 before learned JFCM, Karimnagar stating that the joint complaint is not maintainable and the very cognizance is vitiated and prays to reject the complaint and charge sheet and to acquit him or discharge him and the same was dismissed by learned Magistrate by holding that near filing of joint complaint is not invalid and there are no merits in the petition.

3. Heard both sides. Perused the record.

4. Now the point for consideration is

“Whether the Revision petitioner made out sufficient grounds for setting aside the Order of the Lower Court in Cr.M.P.No.2010 of 2010 in CC.No.409 of 2009 of JMFC (Spl. Mobile), Karimnagar dt.15-12-2016?

5. It is the contention of the Revision petitioner/accused that joint complaints filed by the complainants in respect of same cause of action is not valid and taking cognizance is beyond jurisdiction of the court and they

have to file separate complaints and the lower court did not appreciate position of law and there is no provision in the Cr.P.C. for filing joint complaints and therefore allow the petition. Whereas the learned App submits that complaint given by the complainants is maintainable and there is no provision in the Code of Criminal Procedure that the complaint should be signed only by one complainant and the lower court rightly dismissed the petition in Cr.M.P.No. 2010 of 2010 and it needs no interference.

6. As seen from the record, the complainant filed a private complaint before the lower court and the same was referred to the police U/sec. 156 (3) Cr.P.C. and basing on the referred private complaint given by seven persons before the learned Magistrate, the police registered a case in Cr.No. 72 of 2008 U/sec. 420, 406, 506 IPC, Sec. 156(3) Cr.P.C. and subsequently filed the charge sheet after investigation by showing first complainant as complainant and the remaining six persons as victims.

7. The learned counsel for the Revision petitioner/accused relied on citation reported in 1993CRL.L.J.2213, between Zain Sait Vs. Intex-Painter Interior Decorators, Civil Workers, Maintenance Workers and Water Profors and others. The facts of the case are not similar to the present case on hand.

8. In decision reported in Mohd. Yousuf vs. Smt. Afaq Jahan and another JT 2006(1) SC 10 wherein it was observed that clear position there is that any Judicial Magistrate before taking cognizance offence, can order investigate U/sec. 156 (3) of the Code of Criminal Procedure Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence there in. For the purpose of enabling the police to, start investigation it is open to the Magistrate to direct the police to register an FIR. There is nothing illegal in doing so.

9. Section 156 (3) states any Magistrate empowered U/sec. 190 may order such an investigation. In the case of Suresh Chand Jain vs. State of M.P. and another 2001(1) Criminal 171 (SC) wherein it was held that in a private complaint the Magistrate has power to direct for investigation U/sec. 156 (3) Cr.P.C. before taking cognizance of the offence. The Magistrate also can order police to register the FIR and conduct investigation and in such a case, the Magistrate is not bound to examine the complainant.

10. Here in the present case, the police after investigation filed the charge sheet in Cr.Nos. 72 of 2008 for the offences U/sec. 420, 406, 506 IPC against the revision petitioner/accused by showing the first complainant as complainant and the remaining persons as victims i.e., LW-2 to 7. According to the prosecution the Revision petitioner/accused told to the said LW-1 to 7 that he is running a private chits and induced them to join in the chits and on that they joined as subscribers in the chit run by the Revision petitioner/accused and paid the monthly installments and later he did not pay the amount to them and cheated them and when they asked him to pay the amount, he refused to refund the amount paid by them and threatened them with dire consequences and thereby cheated them and committed criminal breach of trust and intimidation. The police had shown the in the first complainant in the private complaint as defacto complainant i.e., LW-1 and remaining persons i.e., LW-2 to 7 as shown as victims. The CC.No. 409 of 2009 is an old case of the year 2009. Simply because the private complaint was given by seven persons, it cannot be rejected and there is no illegality in dismissing the Cr.M.P.No. 2010 of 2010 by the trial court and the trial court appreciated the material on record on correct lines. Viewed from any angle, there are no merits in the Revision petition and the same is liable to be dismissed. Accordingly the point is answered.

11. In the result, the Revision petition is dismissed by confirming the order passed by the learned JMFC (Spl. Mobile) Karimnagar in Cr.M.P.No. 2010 of 2010 in CC.No. 409 of 2009, Dt: 15-12-2016.

Typed to my dictation by personal assistant, corrected and pronounced by me in the Open Court on this the 15th day of December, 2017.

**JUDGE, FAMILY COURT-CUM-
ADDL. DIST. & SESSIONS JUDGE,
KARIMNAGAR.**

APPENDIX OF EVIDENCE

---NIL----

**JUDGE, FAMILY COURT-CUM-
ADDL. DIST. & SESSIONS JUDGE,
KARIMNAGAR.**