

SMT JUSTICE T. RAJANI
CRIMINAL REVISION CASE No.12 of 2007

ORDER:

This criminal revision case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (Cr.P.C.), seeking to set aside the order dated 02.11.2005 passed in CrI.M.P. No.71 of 2005 in Sessions Case No.151 of 2000 on the file of the Court of V Additional District and Sessions Judge (FTC), Ongole.

2. The impugned order is passed convicting the revision petitioner for the offence under Section 228 of the Indian Penal Code, 1860 (IPC), and sentencing him to pay a fine of Rs.200/- and in default to undergo simple imprisonment for a period of fifteen (15) days.

3. The revision petitioner, aggrieved by the said order, preferred this revision, on the grounds that the Court below ought to have seen that there is no *prima facie* case against the petitioner as there was no intention on the part of the petitioner in making a request to the Court. The Court below ought to have seen that no case is made out against the petitioner under Section 228 IPC and that it is manifestly illegal to convict the petitioner by the same Judge, who initiated the proceedings. The Court below, with an ulterior motive, convicted the petitioner under Section 345 Cr.P.C.

4. The counsel for the petitioner does not appear. Heard the learned Public Prosecutor appearing for the respondent-State.

5. A perusal of the impugned order shows that the Court below adjourned S.C. No.151 of 2000 to 28.7.2005, at the request of the learned Public Prosecutor, and observed that very few witnesses

were produced. On the next day, the concerned Station House Officer (SHO) was absent and the witness (L.W.11) was present. But, there was a doubt with regard to the identity of the said witness. The prosecution was directed to verify whether he is the said person or not. Explanation from the SHO was called for, for violating the Court orders. While things stood thus, after passing the above docket order, it is stated that the revision petitioner, who is the Police Constable, expressed that the Court has no power to comment on the SHO for not serving the summons on the witnesses and interfered with the proceedings and thereby this case was booked against the revision petitioner.

6. The order of the Court below would show that it called for the explanation from the SHO for not serving summons on the witnesses. It cannot be said that it is the duty of the SHO to serve summons on the witnesses but he has to see that the summons are served on the witnesses by the given date of adjournment. When such is the procedure, the objection raised by the revision petitioner, that the Court is not competent to comment on the SHO for not serving the summons, is nothing but interfering with the proceedings of the Court.

7. Hence, in view of the above, this Court does not find any infirmity in the order of the Court below.

8. Accordingly, the criminal revision case is dismissed. As a sequel, the miscellaneous applications pending, if any, shall stand closed.

T. RAJANI, J

August 06, 2019
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