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(2000) 08 AP CK 0001

Andhra Pradesh High Court

Case No: Criminal R.C. No. 576 of 2000

Kasturi Ratnam and Others	APPELLANT
Vs	
Thati Lakshmi and Others	RESPONDENT

Date of Decision: Aug. 24, 2000

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 319
- Penal Code, 1860 (IPC) - Section 406, 420

Citation: (2000) 2 ALD(Cri) 520 : (2000) 2 ALT(Cri) 476

Hon'ble Judges: Vaman Rao, J

Bench: Single Bench

Advocate: P. Venugopal Rao, for the Appellant; T. Gopala Krishna Murthy, for RR 1 to 3 and Public Prosecutor for R-4, for the Respondent

Final Decision: Dismissed

Judgement

Vaman Rao, J.

This criminal revision case is directed against the order dated 26-5-2000 passed by the learned Judicial Magistrate of First Class, Suryapet in Crl.M.P.No. 1023 of 2000 in C.C.No.57 of 1996 under which the petition said to have been filed by the petitioners u/s 319 Cr.P.C. for adding respondents 1 to 3 as accused was dismissed.

2. The petitioners are facing trial for the offences under Sections 420 and 406 I.P.C. on the basis of the charge-sheet filed by the Suryapet Police. The trial, in the case, is in progress and 8 witness have been examined. At this stage, on behalf of the petitioners, the said application was filed requesting the Court below to add respondents 1 to 3 as accused in this case on the ground that they were also partners of the firm Sri Kanaka Durga Chit Fund Company.

3. The contention of the learned counsel for the petitioners is that the version given to the police and also during the evidence given in the Court is that the partners of the said chit fund firm cheated the complainant. The contention of the learned counsel for the petitioners is that inasmuch as respondents 1 to 3 are also partners of the said chit fund firm along with the present accused, they should be arrayed as accused in this case. The learned Public Prosecutor opposed the petition stating that no material was brought forth during the evidence of P.Ws.1 to 8 examined so far to establish any criminal liability of respondents 1 to 3 in the alleged offences and as such the said learned Magistrate rightly rejected the application.

4. The learned Magistrate, in his order, referred to the fact that none of the witnesses examined so far stated that respondents 1 to 3 were the partners of the said chit fund firm. The learned Magistrate also referred to the fact that respondents1 to 3, in their counter, stated that they were not partners of the said chit fund firm. The learned Magistrate also took note that, on behalf of the petitioners, no material was placed before the Court to show that respondents 1 to 3 were the partners of the said chit fund firm. On the other hand, the learned counsel for respondents 1 to 3 states that respondents 1 to 3 were not the partners even on the date of the alleged transaction.

5. For invoking the provisions of Section 319 Cr.P.C., it is necessary that the opinion of the Court that any person not being the accused has committed any offence for which such person could be tried together with the accused, must be based on the material brought forth during the course inquiry or trial of an offence.

6. The said learned Magistrate clearly recorded that nothing was brought out in the evidence of P.Ws. 1 to 8 examined so far to establish that respondents 1 to 3 were partners of the said chit fund firm. On the other hand, apart from there being no material brought forth during the evidence of these witnesses, there appears to be a dispute as to whether respondents 1 to 3 have been the partners of the said chit fund firm or not. The petitioners contend that respondents 1 to 3 are the partners whereas, on the behalf of respondents 1 to 3, it is stated that they have ceased to be the partners. In the absence of any clear material brought forth during the trial on that aspect, the refusal of the said learned Magistrate to proceed u/s 319 Cr.P.C against respondents 1 to 3 cannot be found fault with. Under these circumstances, this criminal revision case is dismissed.