
(2014) 04 AP CK 0134

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 480 of 2014

Jagu Annavaram

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 190
Penal Code, 1860 (IPC) — Section 34, 420, 427, 448, 468

Citation : (2015) 2 ALT(Cri) 45

Hon'ble Judges : K.G. Shankar, J

Bench : Single Bench

Advocate : Krishna Kishore Kovvuri, Advocate for the Appellant

Judgement

K.G. Shankar, J.—The petitioner filed a private complaint before the learned Judicial First Class Magistrate, Bhadrachalam alleging that two persons who are wife and husband committed various offences under Sections 468, 471, 474, 420, 427, 448 and 506 read with Section 34 IPC. The learned Magistrate referred the same to police on 03.04.2013 directing police to register an FIR under Sections 427, 448 and 506 r/w Sec. 34 IPC. The learned Magistrate, consequently, omitted the offences under Sections 468, 471, 474 and 420 IPC in the reference. On the basis of reference u/s 156(3) Cr.P.C. Bhadrachalam Town Police Station issued FIR in Crime No. 122 of 2013 on 04.05.2013 under Sections 427, 448 and 506 r/w Sec. 34 IPC. Questioning the order of the learned Magistrate for not referring the case for the offences under Sections 468, 471, 474 and 420 IPC, the present revision is laid.

2. The learned Magistrate would not appear to have passed any detailed order as to why he was directing police to register an FIR under Sections 427, 448 and 506 r/w Sec. 34 IPC. Further, the learned Magistrate directed police to register an FIR under Sections 427, 448 and 506 r/w Sec. 34 IPC. The purport of Section 156(3) Cr.P.C. is to direct police to investigate the complaint. When a private complaint is filed before a Magistrate, the learned Magistrate may take

cognizance of the offence by exercising the powers u/s. 190 Cr.P.C. Such a Magistrate is also entitled to forward the complaint u/s. 156(3) Cr.P.C. to police for investigation. I do not consider that the learned Magistrate is entitled to direct the police to issue FIR under any specific provision of IPC or any other penal enactment. U/s. 156(3) Cr.P.C. the learned Magistrate directs police to investigate and issue FIR and also lay charge sheet if the case is made out against the accused.

3. That apart, when the complaint is laid under various sections, if the learned Magistrate is referring the complaint u/s. 156(3) Cr.P.C. to police for investigation, perhaps, a cryptic order is sufficient. However, when a complaint is laid under various sections and the learned Magistrate considered it appropriate to refer the case to police u/s. 156(3) Cr.P.C. under some of the sections only, a detailed order is needed as to why the learned Magistrate considered it appropriate not to refer the complaint to police with reference to some of the allegations in the complainant.

4. The learned Magistrate in the present case passed a cryptic order sending a complaint to police in respect of the offences under Sections 427, 448 and 506 r/ w Sec. 34 IPC and curiously directed police to register FIR. I consider that the order is bad for two reasons viz., the order is not a reasoned order so far as not referring the case to police in respect of the offences under Sections 468, 471, 474 and 420 IPC without assigning reasons and also for directing police to register an FIR.

5. Consequently, the orders of the learned Magistrate passed through memo dated 02.04.2013 is set aside. The case is remitted to the learned Judicial First Class Magistrate, Bhadrachalam to consider the case afresh and pass appropriate orders. It is made clear that this is not tantamount to a direction to the learned Magistrate that he should take cognizance of the offences under Sections 468, 471, 474 and 420 IPC also. The learned Magistrate, Bhadrachalam, however, is directed to assign reasons for passing orders u/s. 156(3) Cr.P.C. unless he is strait away making over the whole of the complaint to police u/s. 156(3) Cr.P.C. The learned Magistrate is requested to take appropriate action within four weeks from the date of receipt of a copy of this order. Miscellaneous Petitions, if any pending in this revision, shall stand closed.