

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 589 of 2014

JUDGMENT:-

The present Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C. questioning the order dated 14.02.2014 passed in Crl.A.No. 615 of 2013 on the file of V Additional Metropolitan Sessions Judge (Mahila Court) at Hyderabad.

The facts in issue are as under:

The 1st respondent herein filed D.V.C.No.56 of 2010 on the file of III Metropolitan Magistrate at Hyderabad claiming various reliefs under the Protection of Women from Domestic Violence Act, 2005. During the course of trial, the 1st respondent wanted to mark a set of five documents through further chief-examination of P.W.1 after reopening her evidence. An objection was raised by the petitioner herein stating that since the documents are not certified copies and as the 1st respondent was not a party to the said documents, the same cannot be brought on record. By an order dated 29.06.2013, the trial Court rejected the request of the 1st respondent. Challenging the same, the 1st respondent filed an appeal before the V Additional Metropolitan Sessions Judge (Mahila Court) at Hyderabad vide Crl.A.No.615 of 2013 which was allowed on 14.02.2014 and the case was remanded back to the trial Court with a direction to mark the documents and to decide its validity and legality while disposing of the main DVC. Questioning the same, the petitioner preferred the present revision.

Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent.

As seen from the record, the trial Court by its order dated 19.02.2013 passed in CrI.M.P.Nos.714 and 715 of 2012 permitted to receive the following documents filed by the 1st respondent herein:

- 1) Copy of application submitted by the 1st respondent to the Circle Inspector of Police, Nallakunta Police Station, Hyderabad, dt. 19.10.2010.
- 2) Copy of FIR in Cr.No.11/97 dt.19.01.1997.
- 3) Copy of Lr.No.1/96-97 dt.20.01.1997 addressed by the petitioner in his own handwriting to the S.H.O., Vidya Nagar Police Station, Hyderabad.
- 4) Copy of the complaint given by P.Jyothirmayi, daughter of the petitioner dt.23.01.1997 to the S.H.O., Nallakunta Police Station.
- 5) Copy of the letter executed by the petitioner in his own handwriting on 23.01.1997 before the S.H.O., Nallakunta P.S., Hyderabad.

Similarly, a set of three documents filed by the petitioner herein namely (1) letter addressed to police to supply the very same documents, (2) reply letter by the police to the counsel for the petitioner, and (3) copy of application moved before the concerned criminal Court for supply of the originals of the above said documents of the 1st respondent, were also permitted to be received in the case. The applications to reopen the matter and

to recall of P.W.1 for marking certain documents was allowed. The trial Court permitted the 1st respondent to take first turn to mark the documents and face cross-examination and also permitted the petitioner to take second turn to mark his own documents and face cross-examination. While marking the documents through further chief-examination of P.W.1, the learned counsel for the petitioner raised objection with regard to marking of the documents on the ground that the same are not certified copies.

It is to be noted that the main DVC is still pending before the trial Court. The relevancy of the documents and their admissibility in evidence can be gone into during the course of trial in the main DVC. In fact, the trial Court allowed both the CrI.M.P.Nos.714 and 715 of 2012 for reopening of the case and recall of P.W.1 for marking certain documents respectively on 19.02.2013 itself. The orders passed in the said Cr.M.Ps. have become final, as the same were not challenged. The documents, which are sought to be marked by the petitioner herein, were not questioned by the 1st respondent herein when P.W.1 was further cross-examined. The only objection raised is that the certified copies of the documents were not filed. But, as observed by the appellate Court, the documents were issued by the concerned police with the attestation of the concerned S.H.O. The objection if any with regard to the existence of originals can be gone into during the course of trial in the main DVC. The other objection raised by the learned counsel for the petitioner is that the 1st respondent is not a party to the documents and proper person to speak to the contents is not

before the Court. It is not in dispute that the 1st respondent is not a party to the documents. However, the dispute between the petitioner and the 1st respondent can be seen from the endorsements made, on the documents, which are sought to be marked. The learned counsel for the 1st respondent wanted to mark the documents in the O.P. But before the said documents could be marked in the O.P., wife withdrew the O.P. This Court is of the view that bringing the documents on record does not by itself cause any prejudice to the petitioner. As the 1st respondent contends that the documents are very essential for a just decision of the case, it would be appropriate if the same are brought on record leaving the issue of genuinity, admissibility and relevancy of those documents, to be decided during the trial.

Accordingly, the Criminal Revision Case is dismissed. It is needless to mention that the objections if any raised during the course of trial, with regard to genuinity, admissibility and relevancy of the documents, shall be considered by the trial Court, uninfluenced by any of the observations made by this Court or by the appellate Court.

Consequently, interim stay dated 20.03.2014 granted in Crl.R.C.M.P.No.953 of 2014 is vacated and the said application is dismissed.

C. PRAVEEN KUMAR, J

12th March, 2015
cbs

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