

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE NO.722 OF 2015

ORDER:

1. This revision case is filed by the petitioner-de facto complainant aggrieved by the order dated 23.3.2015 passed by the XIX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad, in CrI.M.P.No.285 of 2014 in C.C.No.1702 of 2013.

2. Originally, the petitioner filed a complaint before the Assistant Commissioner of Police. Then, the Assistant Commissioner of Police directed the Station House Officer of KPHB Police Station to register the case. After completion of the investigation, charge sheet was filed against the accused for the offence under Sections 498-A IPC and 3 and 4 of the Dowry Prohibition Act and the same was taken on file. Then, the petitioner filed the above CrI.M.P. in the form of a protest petition seeking to record her sworn statement and to reopen the case for the purpose of further investigation under Section 173(8) Cr.P.C. and to direct the police to register a case against the accused for the offences under Sections 313, 307, 324, 498 and 506 part II IPC. The said CrI.M.P. was rejected as not maintainable. Hence, the petitioner filed the present revision.

3. Heard and perused the material available on record.

4. In the order under revision, the learned Magistrate observed that the further investigation can be done by the investigating agency, if any further evidence is available during the course of investigation, and that Section 173(8) deals with the powers of the investigating officer and therefore, the petition is not maintainable.

5. It is pertinent to note that when a protest petition is filed, even though wrong provision of law is mentioned therein, the intention of the petitioner therein should be taken into consideration. The petitioner filed the above CrI.M.P. aggrieved over the deletion of the charges. It is the main grievance of the petitioner that the accused should be tried for the charges deleted viz., under Sections 313, 307, 324, 498 and

506 part II IPC. In the instant case, even though wrong provision of law was mentioned in the above petition, the learned Magistrate ought to have taken into consideration the intention of the petitioner and decide the issue by going through the contents and the prayer made in the petition.

6. Admittedly, the petition filed by the petitioner under Sections 200 and 173(8) Cr.P.C. praying to order for further investigation, is erroneous in law. But it is to be noted that the petitioner has a right to file a protest petition when she is aggrieved over the deletion of some of the charges in the charge sheet. When such petition is filed, even though wrong provision of law is mentioned therein, it is the duty of the Magistrate to go through the material available on record so as to decide whether the investigation was done properly and whether the deletion of the charges is in accordance with law or not, and pass speaking order.

7. In view of the foregoing discussion, the order impugned herein is set aside and the matter is remanded to the Court of XIX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad to consider the above CrI.M.P.No.285 of 2014 in C.C.No.1702 of 2013 filed by the petitioner and pass appropriate orders afresh, in accordance with law, after perusing all the records and after hearing both sides.

8. With the above direction, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Dated: 9.6.2015

Nn.

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