

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE NO.2891 OF 2016

ORDER:

This Criminal Revision Case is filed by the petitioner-A2 under Sections 397 and 401 Cr.P.C. challenging the order, dated 08-09-2016 in CrI.M.P.No.379 of 2014 in C.C.No.1054 of 2013 on the file of the IX Additional Chief Metropolitan Magistrate at Hyderabad.

2. The contention of the learned counsel for the petitioner is two fold viz., (1) the allegations made in the charge sheet do not constitute the alleged offences punishable under Sections 420 and 380 IPC and (2) no independent witness was examined and therefore, it is a fit case for discharge of the petitioner.

3. Per contra, learned Public Prosecutor submitted that at the stage of framing of charges, the Court cannot conduct roving enquiry in order to ascertain whether the material on record is sufficient to convict the accused or not. He further submitted that the Court has to take into consideration whether material available on record is *prima facie* sufficient to frame charges.

4. The point that arises for consideration in this revision is whether there is any illegality or irregularity in the order, dated 08-09-2016 passed by the trial Court?

5. A perusal of the record reveals that the petitioner herein, who is A2, is facing trial in C.C.No.1054 of 2013 for the above offences. During the pendency of the case, the petitioner herein filed the above CrI.M.P. under Section 239 Cr.P.C. for discharge and the same was dismissed by the trial Court. Hence, this revision.

6. I have carefully perused the material available on record.

7. As per the allegations made in the complaint, A1 mixed some drug in the liquor and induced the de facto complainant to consume the same. Thereafter, the petitioner along with A1 committed theft of cash of Rs.2,50,000/- and four tulas of gold from the house of the de facto complainant.

8. The contention of the learned counsel for the petitioner is that there is a discrepancy with regard to the date of incident.

9. A perusal of the record reveals that the alleged incident had taken place on 08-05-2013, whereas the complaint was lodged on 11-06-2013. There is no discrepancy with regard to the date of commission of the alleged offence. I have carefully scanned the F.I.R., charge sheet and other material on record. As per the allegations made in the complaint, the petitioner along with A1 committed the above offences. The petitioner raised various queries, which involve complexity of disputed questions of fact, which cannot be gone into at the time of deciding the discharge petition.

10. If the material placed before the trial Court is not sufficient to frame the charges, the trial Court can discharge the accused. At the time of framing of charges, the trial Court has to consider whether there is any *prima facie* material against the accused to proceed further or not. If the Court satisfies that there is a *prima facie* material, then it is not a fit case for discharging the accused.

11. A perusal of the record reveals that the trial Court after satisfying itself that there is a *prima facie* case, dismissed the petition. In **STATE OF HIMACHAL PRADESH V KRISHAN LAL PARDHAN**¹, the apex Court held thus:

“For scrutiny within the limits of Section 239 Cr.P.C., all that is required at the stage of framing of charges is to see whether a *prima facie* case regarding the commission of certain offences is made out. The question whether the charges will eventually stand proved or not can be determined only after the evidence is recorded in this case, which cannot be decided on merits without giving the prosecution an opportunity to adduce evidence against the accused.”

12. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that there is a *prima facie* material against the petitioner to proceed further. The trial Court considered the material on record in right perspective and dismissed the petition. The trial Court assigned reasons, much less, cogent and valid reasons while dismissing the petition. Therefore, there are no grounds to interfere with the order of the trial Court.

13. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending, in this revision shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 18-11-2016.

Hsd

¹ AIR 1987 SC 733