

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.630 of 2017

ORDER:

The petitioners are accused Nos.2 to 4 and the revision 2nd respondent is the defacto complainant. There are 4 accused in all of whom 1st accused is husband of the defacto complainant and A.2 and A.3 are her in-laws and 4th accused is brother of her husband, in crime No.34/2016 of SHO, Dachepalli P.S. for the offence under Sections 498-A & 354 IPC and Sections 3 & 4 of Dowry Prohibition Act.

The police after investigation filed charge sheet against the accused and the learned Magistrate, Gurazala, has taken cognizance for the same. After securing presence of the accused and on supply of copies and in the course of hearing before charges, A.2 to A.4/revision petitioners supra filed CrI.M.P.No.4846 of 2016 under Section 239 Cr.P.C. seeking discharge of them from C.C.No.136 of 2016 in relation to the offences supra in claiming as they are innocent and they are falsely implicated though they never demanded any dowry or other amounts and the allegations are omnibus, vague and with no specific instances against them apart from the petitioners are not living with A.1 and defacto complainant after their marriage. In fact the petitioners earlier moved CrI.P.No.12755 of 2016 before this Court to quash the proceedings and it was disposed of with observation of truth or otherwise of the allegations made against them can be decided only after trial and to face the trial.

The learned Public Prosecutor before the lower Court while so submitting and by claiming that there is material against them sought for dismissal. It is therefrom by impugned order of the lower Court supra with observation that having earlier approached this Court under Section 482 Cr.P.C. and went unsuccessful and the FIR averments show categorically against her husband and in-laws of the harassment she meted at the instigation of in-laws and also against the father-in-law that he tried to outrage her modesty by hugging her from her back and A.3 her mother-in-law also supported her father-in-law-A.2. When she questioned their acts of calling her as barren woman and cannot procure children and with threats to perform another marriage to her husband-A.1 and in saying A.4 also outraged her modesty by caught holding of her hand in asking her to sleep with him to have children. The defacto complainant also stated the said facts in her statement under Section 161 Cr.P.C. statement during investigation besides LWs.2 to 4 also supported the same from their statements who are mother of defacto complainant and the neighbours. The trial Court therefrom held that there is *prima facie* accusation against the accused persons.

A perusal of the record clearly shows there are accusations in so far as dowry harassment and ill-treatment against A.1 to A.3, it attracts offence under Section 498-A IPC and Sections 3 & 4 of D.P. Act against them for the demands for additional dowry and harassment. Coming to the offence under Section 354 IPC attributed against the father-in-law and brother-in-law i.e., A.2 and A.4 concerned, she did not mention when the alleged incidents happened and if so why she kept quiet. The stray

allegations even non-mentioning in her report and in her statement no way can be given credence. There is nothing even from the statements of other witnesses in so far as offence under Section 354 IPC against father-in-law and brother-in-law. Thus even the quash petition to quash proceedings ended in dismissal, it is the duty of the trial Court in the course of framing charges any offence made out or not instead of relying upon earlier dismissal of the quash petition with a direction to face trial as if be all for not to consider the merits in framing charges and to what extent they discharged if entitled.

Accordingly and in the result, the criminal revision case is allowed in part by quashing the proceedings in part for the offence under Section 354 IPC against A.2 and A.4 concerned and also for the offence under Section 498-A IPC and Sections 3 & 4 of D.P. Act in so far as against A.4 and by upholding the offence under Section 498-A and Sections 3 & 4 of D.P. Act against A.1 to A.3 for framing of proper charges by the trial Court after hearing therefrom.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 18.04.2017
ska