

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRL.R.C. No.1000 OF 2017

JUDGMENT:

The present Criminal Revision Case is filed by the revision petitioner - accused under Sections 397 (1) and 401 of the Code of Criminal Procedure, 1973 (for short 'Code'), challenging the order, dated 20.03.2017, passed by the learned Special Judge for trial of offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act - cum - VI Additional Metropolitan Sessions Judge, Secunderabad, in CrI.M.P. No.750 of 2016 in Special S.C. No.8 of 2016, refusing to discharge him for the offences punishable under Section 376 (N) IPC and Section 3 (2) (iii) of the Scheduled Castes and the Scheduled Tribes (Prevention Of Atrocities) Act, 1989.

2. The learned Special Judge referring to the rulings in **Satish Mehra v. Delhi Administration**¹, **Dilip S/o Purushottam Rao Pathak v. State of Maharashtra**² and **Dilwar babu Kurana v. State of Maharashtra**³, relied on by the learned counsel for the petitioner before him, did not agree with the defence stand and opining that the material collected on record by the prosecution would make out a *prima facie* case for the aforesaid offences, dismissed the application.

¹. 1996 LawSuit (SC) 1112

². 2008 LawSuit (Bombay) 2245

³. 2002 LawSuit (SC) 12

3. Heard Sri Y. Balaji, learned counsel for the revision petitioner - accused, and the learned Special Assistant Public Prosecutor for the State of Telangana.

4. For better appreciation, it would be appropriate to refer to a few relevant facts.

i) The *de facto* complainant - K. Anusha, belongs to scheduled caste and the revision petitioner, who belongs to Brahmin community, fell in love and they moved together closely. He took her to Chilkur Balaji Temple, where he placed Sindhur on her fore-head and declared her as his wife and had sexual intercourse with her and insisting her to live as wife.

ii) When she requested him to marry her, he postponed it on the pretext that his sister's marriage was going to be performed shortly and to wait till her marriage was over. But, the *de facto* complainant gained knowledge on 15.08.2014, that the marriage of the sister of the revision petitioner was already performed. Then she demanded him to marry her, but, he refused to marry. Thus, she was constrained to lodge a complaint with the police, and the First Information Report was registered and that led to filing charge sheet against the petitioner for the aforesaid offences.

5. What all stated by the learned counsel, as per the petition averments, has been that even if the complaint allegations are accepted, it is to be viewed that the *de facto* complainant gave consent

for sexual affair and, therefore, the commission of offence punishable under Section 376 (N) IPC does not arise.

6. When viewed, in the light of the fact-situation that under the promise that he would marry her having fallen in love associated with exchange of love letters even, and even taking her to Temple and applying Sindhur and making her to believe that she would be his wife and subjecting her to sexual intercourse, were all even, at this stage, repel 'voluntary consent' sought to be projected by the petitioner. The petitioner is perfectly aware of his caste and the caste of the *de facto* complainant. The very fact of his refusal to marry her having falsely representing her that she will have to wait till his sister's marriage was over, which, in fact, was a false representation, certainly, it cannot be said that there is no material *prima facie* making out the offences alleged against the petitioner. As rightly opined by the learned Special Judge that intention can only be inferred when a full-fledged trial takes place, certainly, it is not the stage to view that the consent given was 'voluntary' as sought to be projected by the petitioner. There is no merit in the Criminal Revision Case.

7. The Criminal Revision Case is, accordingly dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the present revision, stand closed.

A. SHANKAR NARAYANA, J

November 21, 2017.

Pv/Mgr