

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.1985 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code') by the unsuccessful petitioners/ 3rd parties is directed against the docket orders, dated 02.06.2017, of the learned IX Metropolitan Magistrate, Cyberabad, Kukatpally, Hyderabad, passed in CrI.M.P.No.1660 of 2017 in Crime No.312 of 2017 on the file of Kukatpally Police Station.

2. I have heard the submissions of *Sri V.Venkata Kumar*, learned counsel appearing for the petitioners, and of the learned Public Prosecutor representing the 1st respondent-State of Telangana. As this Court is of the considered view that this revision can be disposed of at the stage of admission, there is no need to order for service of notice on the 2nd respondent/victim woman. She is also stated to be not a necessary party in this revision case.

3. The facts of the case, which are required to be stated as a preface to this order, in brief, are as follows:

The victim woman/ 2nd respondent herein was rescued by the above said police when she was allegedly indulging in certain illegal activities and was lodged in Prajwala Rescue Home, Tukuguda, for her rehabilitation. The police concerned registered a case in Crime No. 312 of 2017 against the accused involved in the crime for the offences punishable under Sections 370 (A) IPC, Sections 3, 4 and 5 of Prevention of Immoral Traffic Act, 1956. While the investigation into the said crime is in progress, the petitioners filed the aforesaid miscellaneous petition seeking custody of the victim woman *inter alia* stating that the 1st petitioner is the mother of the victim woman and that the

petitioners 2 and 3 are the minor children of the victim woman and that because of the fact that the victim woman is lodged in the rescue home, her children are being deprived of motherly affection and care and that continuation of the victim woman in the home any longer would spoil her reputation and that her presence is necessary at the house for taking care of her children and that the 1st petitioner, who is the mother of the victim woman, is the best person to seek custody and take care of the victim woman. It is also stated on behalf of the petitioners that the 1st petitioner is prepared to abide by any conditions that may be imposed by this Court while granting custody of the victim woman. The said petition was resisted by the prosecution. On merits and by the orders impugned in this revision, the trial Court dismissed the petition of the petitioners. Therefore, the petitioners are before this Court.

4. Learned counsel for the petitioners while reiterating the case of the petitioners and the chronology of events, which are stated supra, would submit as follows: 'The order of the trial Court, which is a cryptic order bereft of reasons, is unsustainable under facts and in law. The said order which is erroneous is liable to be set aside. The petitioners are entitled to seek release of the victim woman from the rescue home and seek custody of the victim woman not only in the interest of the victim woman, but also in the interests of her children and family. The victim woman is in the rescue home for more than sixty days. The rehabilitation process, if any, might have been completed by now. Therefore, there are no impediments for granting custody of the victim woman by ordering her release from the rescue home in the interests of justice.'

5. Per contra, learned Public Prosecutor for the State of Telangana representing the 1st respondent would submit that the investigation is in progress and that even the examination of the victim woman is not completed

and that she is under rehabilitation process and that her interests are being taken good care of by the officers of the rescue home and that the interim custody or custody cannot be granted to the petitioners in the facts and circumstances of the case.

6. I have given detailed and thoughtful consideration to the facts and submissions.

7. The docket order of the trial Court, which is devoid of any reasons, much less valid reasons and which was passed even without mentioning the bare minimum facts relating to the crime and the contentions of the petitioners is unsustainable under facts and in law. While rejecting the request of the petitioners, the only observations made by the trial Court in its order are that the report given by the officer concerned of the rescue home shows that the victim woman is in safe custody and that a recommendation was made in the report that the victim woman should be kept in the home for a longer period for rehabilitation and that the 1st petitioner did not take any steps to dislodge the contents of the said report though her relationship with the victim woman is established. As rightly contended by the learned counsel for the petitioners, the trial Court did not call for a report from the Probationary Officer having jurisdiction over the area in which the residential house of the victim woman and the petitioners is situated. Such a report should have been called for to know the economic condition and social status of the family and the environment and surroundings of the residential locality of their house. Further, the trial Court has not given an opportunity to the 1st petitioner to examine herself as a witness. The trial Court ought to have examined the 1st petitioner as a witness to ascertain the genuineness of the contentions and claim of the 1st petitioner. The trial Court has also not examined the victim woman to know her views and preferences. In that view of the matter there is no material on record to come to a safe conclusion in the matter.

8. On the above analysis, this Court finds that the revision can be disposed of with appropriate directions.

9. In the result, the Criminal Revision Case is allowed and the impugned order is set aside. As a sequel, CrI.M.P.No.1660 of 2017 is remanded to the trial Court for disposal afresh on merits and in accordance with the procedure established by law. Nevertheless, the trial Court shall call for a report of the Probationary Officer concerned as expeditiously as possible and in the meanwhile record the evidence of the 1st petitioner, if she so desires, and of the victim woman and then take a just and fair decision in the matter after considering the reports of the officers of the rescue home and also of the Probationary Officer. The trial Court shall endeavour to complete the necessary exercise as expeditiously as possible and preferably within (30) days from the date of receipt of a copy of this order. It is also made clear that in case the petitioners file a petition and make a request for granting visitation rights, during the pendency of the petition, the trial Court shall consider the said request appropriately and on its merit.

Pending miscellaneous petitions, if any, shall stand closed.

19th July, 2017

M. SEETHARAMA MURTI, J

Note:- Furnish CC by 20.07.2017
(B/o)
RAR