

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1649 of 2008

ORDER:

1 This Criminal Revision Case is filed under Section 397 and 401 Cr.P.C. challenging the order dated 23.09.2008 passed in CrI.M.P.No.691 of 2008 in C.C.No.3 of 2006 on the file of the Court of the I Additional Metropolitan Sessions Judge, Hyderabad wherein and whereby the petition filed by the petitioners under Section 245 Cr.P.C. seeking to discharge was dismissed.

2 The learned counsel for the petitioners strenuously submitted that the trial Court has not considered the material available on record in right perspective and dismissed the petition on erroneous grounds. He further submitted that the order passed by the Court below is not sustainable either on facts or in law, therefore, it is a fit case to allow the Revision Case.

3 *Per contra*, the learned counsel for the first respondent submitted that the trial Court passed the impugned order after taking into consideration the material available on record. He further submitted that the petitioners have not taken a specific plea in the petition that they never entered into the house of the first respondent on 11.8.2005 and had taken away the first respondent to the Police Station. He further submitted that there is no illegality or irregularity in the order passed by the trial Court which warrants interference of this Court under Section 397 of Cr.P.C.

4 The facts, in brief, that lead to the filing of the present Revision Case are as follows:

5 The first respondent filed a private complaint under Section 200 Cr.P.C. against the petitioners on the file of the Special Judge for Human Rights – I Additional Metropolitan Sessions Judge, Hyderabad. The learned I Additional Metropolitan Sessions Judge, after recording the sworn statements of the first respondent and others has taken cognizance of the offences punishable under Sections 448 and 323 of IPC and Section 2 (1) (d) of Protection of Human Rights Act and numbered it as C.C.No.3 of 2006 and issued summons. After receiving the summons, the petitioners made appearance before the trial Court and filed a petition under Section 245 Cr.P.C. for discharge. The learned I Additional Metropolitan Sessions Judge, after affording reasonable opportunity to both parties, dismissed the petition. Hence the present Criminal Revision Case.

6 Now the point that arise for consideration in this Revision Case are

1. Whether the trial Court is justified in dismissing the petition filed by the petitioners under section 245 Cr.P.C?
2. Whether there is any illegality or irregularity in the order passed by the trial Court which warrants interference of this Court?

7 Both point Nos.1 and 2 are intertwined with each other and hence I am inclined to address these two points simultaneously in order to avoid recapitulation of facts.

8 It is an admitted fact that the first respondent filed a complaint under Section 200 Cr.P.C against the petitioners for the offences punishable under Sections 326, 343, 357, 448 and 506 r/w Section 34 of IPC. The trial Court has taken cognizance of the offences

against the petitioners under Section 2 (1) (d) of Protection of Human Rights Act and Sections 448 and 323 of IPC.

9 As per the allegations made in the complaint, on 11.08.2005 the petitioners trespassed into the house of the first respondent and had forcibly taken him to the Police Station and beat him. It is further alleged that the sister of the first respondent issued a telegram to the Commissioner of Police. Thereafter, the first respondent and his brother were shifted to S.O.T office located in the first floor of the D.C.P. office, East Zone, Amberpet, Hyderabad and subsequently they were handed over to Malkajigiri police. It is not the case of the petitioners that an FIR was registered against the first respondent on 11.08.2005. I have carefully scanned the petition filed by the petitioners before the trial Court in order to appreciate the points urged by the learned counsel for the petitioners. In the petition is not mentioned that the petitioners did not enter into the house of the first respondent on 11.08.2005. It is not denied in the petition that they took the first respondent to the Police Station and detained him up to 12.08.2005. The petitioners simply stated that they have not committed any offence.

10 While deciding the petition filed under Section 245 Cr.P.C. the Court has to confine itself to the fact whether the material placed before it prima facie is sufficient to proceed further or not. I have perused the sworn statements of the witnesses i.e. P.Ws.1 to 3. A perusal of the statements of P.Ws.1 to 3 prima facie disclose that the petitioners herein have taken the first respondent to the Police Station on 11.08.2005 and detained him up to 12.08.2005. The material placed before the Court is prima facie sufficient to proceed against the

petitioners. The trial Court also has rightly considered the material available on record in a right perspective and arrived at a conclusion that the material available on record is prima facie sufficient to proceed further against the petitioners for the offences punishable under Sections 448 and 323 of IPC and section 30 of Protection of Human Rights Act. I am fully agreeing with the findings recorded by the court below. The trial Court has not committed any illegality or irregularity while dismissing the petition which warrants interference of this Court while exercising revisional jurisdiction under Section 397 of Cr.P.C.

11 Having regard to the facts and circumstances of the case I am of the considered view that this is not a fit case to allow the Revision Case.

12 Accordingly, this Criminal Revision Case is dismissed. However, the trial Court is hereby directed to proceed with the case in accordance with law, without being influenced by any of the observations, if any, made herein. As a sequel, miscellaneous petitions, if any pending in this Criminal Revision Case, shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 03.08.2017
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