

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2701 OF 2017

JUDGMENT:

Heard Sri V. Raghunath, learned counsel for the revision petitioners, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

2. The main submission of the learned counsel for the revision petitioners is that the revision petitioners, who are shown as accused Nos.3 and 4 based on the First Information Report (FIR) registered, were later sought to be deleted and, accordingly, when the charge sheet was laid, a proposal was made for deletion of their names from the array of accused persons. The learned counsel would submit that the learned Additional Judicial Magistrate of First Class, Karimnagar, has taken cognizance even against accused Nos.3 and 4 for the offences punishable under Section 498-A of Indian Penal Code, 1860, and Section 4 of Dowry Prohibition Act, 1961, and directed summons to all the four accused persons. The learned counsel would point out that the order taking cognizance does not reflect application of mind by the learned Magistrate. The learned counsel has read over the docket order passed by the learned Magistrate which is under challenge herein so far as accused Nos.3 and 4 are concerned.

3. The learned Additional Public Prosecutor would submit that the statements of witnesses recorded under Section 161(3) of the Code of Criminal Procedure, 1973, would show *prima facie* material against accused Nos.3 and 4 even and that has been the reason, the learned Magistrate, ignoring what has been suggested or proposed by the Investigating Officer, has taken cognizance against accused Nos.3 and 4 also, the revision petitioners herein.

4. To appreciate the arguments advanced by the learned counsel for the revision petitioners as well as the learned Additional Public Prosecutor, it would be appropriate to extract the docket order taking cognizance, passed by the learned Magistrate on 08.08.2017, which reads thus:

“08.08.2017

Examined the entire record. The record shows that as per the statements of witnesses, allegations are made against A1 to A4. The truth or otherwise of the same is to be decided during course of trial. Hence, the cognizance is taken against A1 to A4 for the offences u/s 498-A of IPC and Section 4 of the D.P. Act. Register it as CC No_____/2017. Issue Ss to A1 to A4. Call on 02.11.2017.”

5. Nothing is required to deliberate much as the order under challenge *ex facie* reflects that no reasons have been assigned in taking cognizance against the revision petitioners herein, accused Nos.3 and 4. Mere expression of opinion that record shows that as per

the statements of witnesses, allegations are made against accused Nos.1 to 4 and reserving the decision stating that 'truth or otherwise of the same is to be decided during the course of trial' would not constitute application of mind by the learned Magistrate, more particularly, when the investigating agency, on conclusion of investigation, has come up with the case that there is no material against accused Nos.3 and 4, the revision petitioners herein, and proposed to delete their names.

6. Therefore, it is desirable to set aside the order under challenge and direct the learned Magistrate to pass an order afresh by going through the relevant material placed by the prosecution. The learned Magistrate shall complete the exercise within one month from the date of receipt of a copy of the order.

7. With the above directions, the Criminal Revision Case is allowed setting aside the order under revision, at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the revision stand closed.

A. SHANKAR NARAYANA, J

November 15, 2017.
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