

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.143 OF 2018

ORDER:

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for the 1st respondent State.

2. Though notice was served on the 2nd respondent, she has neither appeared in person nor engaged any counsel on her behalf.

3. The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.7097 OF 2016 in C.C.No.214 of 2011 dated 5.1.2018 on the file of the Court of the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad, dismissing the petition filed U/s.239 of Cr.P.C. to discharge the petitioner for the offence U/s.498-A IPC.

4. The facts of the case are that the 2nd respondent herein lodged a complaint on 22.1.2011 stating that her original name is Prameela. Her marriage was performed with one Ashok during the year 1988 in the presence of elders. Since disputes arose between them, they got separated. At that time, the 2nd respondent got acquaintance with the petitioner herein. Out of acquaintance, the 2nd respondent married the petitioner herein at Moulali Gutta and changed her name as Nusrath Fatima.

Out of the wedlock, they were blessed with two female children. In fact, her husband took their first daughter to his first wife and they are educating her. On 11.10.2010, i.e., on the day of Ramzan festival, a quarrel took place between the 2nd respondent and the petitioner, pursuant to which, the petitioner beat the 2nd respondent and left the house. Thereafter, he stopped visiting her. In those circumstances, she filed a complaint to take appropriate action. Pursuant to the said complaint, a crime was registered vide FIR.No.26 of 2011 for the offence under Section 498-A IPC. After investigation, charge-sheet is filed. The Court below took cognizance of the offence and numbered the case as CC.No.214 of 2011. Pending the CC, the petitioner herein filed a petition vide CrI.M.P.No.7097 of 2016 under Section 239 of Cr.P.C. to discharge him for the offence Under Section 498-A IPC. The said petition was dismissed by orders dated 5.1.2018. Aggrieved by the said orders, the present Criminal Revision Case is filed.

5. Learned counsel for the petitioner would submit that the order passed by the Court below is contrary to law, since there are absolutely no allegations, more particularly, the ingredients satisfying the offence under Section 498-A IPC. The trial Court failed to apply the principles laid down by this Court and the

Hon'ble Apex Court to determine as to whether there is sufficient material to proceed with the trial. He also contended that the date of incident i.e., 11.10.2010 will not satisfy the ingredients of an offence as contemplated under Section 498-A IPC. Therefore, he sought to allow the present Criminal Revision Case.

6. Per contra, learned Public Prosecutor appearing for the 1st respondent State, fairly conceded that the allegations made in the complaint and the charge-sheet will not make out any prima facie case to frame a charge for the offence Under Section 498-A IPC against the petitioner herein.

7. After hearing both the counsel and having regard to the facts of the present case and on perusal of the material on record, it is revealed that though a charge-sheet was filed after investigation, nothing is mentioned in the charge-sheet to make out a prima facie case for the offence Under Section 498-A IPC against the petitioner. In fact, the charge-sheet is only an extract of the complaint lodged by the 2nd respondent herein. For the purpose of framing a charge, the Court below has to see as to whether any prima facie case is made out to proceed with the matter by framing a charge against the accused.

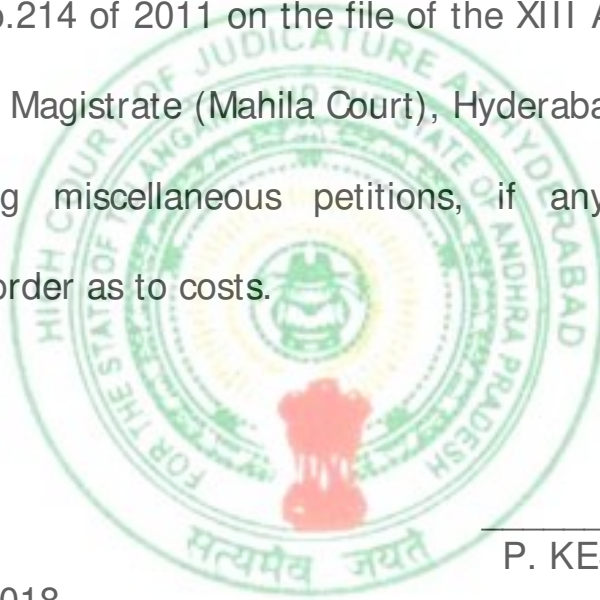
8. In the case on hand, a perusal of the complaint as well as the charge-sheet would not indicate that any prima facie case

is made out, more particularly, to frame a charge against the petitioner for the offence under Section 498-A IPC.

9. In the circumstances, this Court is of the opinion that the proceedings initiated against the petitioner for the offence under Section 498-A IPC in CC.No.214 of 2011 are liable to be quashed.

10. Accordingly, the Criminal Revision Case is allowed discharging the petitioner for the offence under Section 498-A IPC in CC.No.214 of 2011 on the file of the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.



Date: 21.6.2018

KPM

P. KESHA RAO,J