

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.R.C.No.1942 of 2017

ORDER:

This revision is arising out of the endorsement made on the charge sheet by the learned Magistrate. The endorsement reads as under:

“Crime No.29 of 2016 under Sections 498-A, 509, 506 read with 34 IPC.

A-1 released on station bail.

A-2 to A-5 are deleted from charge sheet and Sections 509, 506 read with 34 IPC are added as per order dated 28.06.2016. Charge sheet filed against A1 under Section 498'A' IPC and Sections 3 and 4 of D.P. Act.

Issue notice to defacto complainant.”

2. Learned counsel for the petitioners submits that the learned Magistrate has taken cognizance of offences against the accused/A-2 to A-5 though their names were deleted from the charge sheet for the offence under Sections 509, 506 read with 34 IPC. He further submitted that the learned Magistrate has not passed any reasoned order, why he was taken cognizance against the accused/A-2 to A-5, though their names were deleted from the charge sheet, and basing on what material, he has taken cognizance of offences against them, has also not been stated in the endorsement.

3. Learned counsel further submits that the learned Magistrate has issued summons against the accused/A-1 to

A-5 for the offence under Sections 498A, 509, 506 read with 149 IPC and Sections 3 and 4 of D.P. Act.

4. Learned counsel for respondent No.2 submits that the learned Magistrate need not give any reasons for taking cognizance of the offences and issuing summons to the accused/A-1 to A-5.

5. Heard the learned counsel for the petitioners and the learned Addl. Public Prosecutor for R-1 and learned counsel for R-2.

5. The point for consideration in this revision is that : **Whether learned Magistrate can take cognizance of the offence against the accused/A-1 to A-5 without passing a reasoned order and whether the issuance of summons against/A-1 to A-5 instead of deleting the names of accused/A-2 to A-5 from the charge sheet is in accordance with law?**

6. On consideration of the submissions made by learned counsel for the petitioners and the learned counsel for the respondents, this Court is of the view that, the order passed by the learned Magistrate is interlocutory in nature, and they are not revisable under Section 497(2) Cr.P.C. The usual way of Magistrate passing the orders while taking cognizance is as shown above. But in the instant case, the learned Magistrate has taken cognizance against the accused/A-2 to A-5, even though it is mentioned in the

charge sheet that, the charges against them under Sections 509, 506 read with 34 IPC are deleted.

7. Having regard to the facts and circumstances of the case, the petitioners have to avail an appropriate remedy and not by way of revision. Therefore, the revision is disposed of by giving liberty to the petitioners to avail appropriate remedy before the appropriate forum.

8. Learned counsel for the petitioners requested for stay of all further proceedings including the appearance of petitioners in C.C.No.288 of 2016 before the trial Court for a period of two weeks to enable them to seek appropriate remedy.

9. Considering the request of learned counsel for the petitioners, there shall be stay of all further proceedings in C.C.No.288 of 2016 before the trial Court for a period of fifteen (15) days from today to enable the petitioners to seek appropriate remedy.

10. The Criminal Revision Case is disposed of accordingly.

Miscellaneous Petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J.

Date : 15-11-2018.

Note : C.C. two days.

(B/0)
Gvl

