

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO. 1135 OF 2018

ORDER:

Heard the learned counsel for the petitioner as well as the learned counsel for respondent No.1.

2. The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.167 of 2017 in S.C.No.225 of 2016 dated 5.3.2018, dismissing the petition filed under Section 227 of Cr.P.C. to discharge the petitioner/Accused No.6 for the charges levelled against him.

3. The facts of the case are that one Smt.Anitha/LW1 lodged a complaint before the Sub-Inspector of Police, Konakanamitla Police Station, stating that her sister Ramanujamma was married on 16.8.2009 with Accused No.1. At the time of marriage, they gave an amount of Rs.2,50,000/-, 20 sovereigns of gold and Ac.1.25 cents of agricultural land as dowry. After marriage, they lived one year in Madras and then shifted to Mangapuram village. Her sister resided with her in-laws. The brother and maternal uncle of accused No.1 used to scold the deceased for not having children. However, out of wed-lock, at a later point of time, the deceased gave birth to a male child. When the said fact was informed to accused No.1, he refused to see the boy on the ground that the boy was not born to him. After eleven months, a panchayat was held in presence of the village elders and Sub-Inspector of Police, Darsi, wherein Accused No.1 agreed to take his wife and promised to lead

a family life. In fact, in the said panchayat, the petitioner herein, his wife, brother of accused No.1 and some others gave assurance that they would take care of the deceased without any problem. On 1.11.2015 at about 12.30 p.m., LW1 received a telephone call and immediately they rushed to Mangapuram and when enquired with the neighbours, they came to know that her sister was beaten with a wooden pestle and was killed. Therefore, a complaint was lodged. Pursuant to the said complaint, a case in Cr.No.52 of 2015 for the offence under Sections 498-A, 302 read with Section 34 IPC was registered. Pursuant to the registration of crime, investigation was conducted and a charge sheet was filed against Accused Nos. 1 to 6 which include the petitioner herein. The Court below has taken cognizance of the offence against all the accused and numbered the case as S.C.No.225 of 2016. During the pendency of the Sessions Case, the petitioner herein filed CrI.M.P.No.167 of 2017 under Section 227 of Cr.P.C. to discharge him for the charges levelled against him. The 2<sup>nd</sup> respondent State filed counter denying the averments made in the petition and contended inter-alia that the petitioner herein and his wife obstructed the deceased and they threatened her in the street by holding her hand. They also abused her that “Evathive Nuvvu, vadu evariki puttadu vadu mavadiki puttina vadukadu, neevu evaru vellu.”. Every moment, the role of the petitioner herein was there in harassing the deceased, resulting in her death. After hearing, the Court below was pleased to dismiss

the said petition on 5.3.2018. Aggrieved by the said orders, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner contended that no prima facie case is made out against the petitioner for the offences levelled against him. In the complaint, except making a vague allegation that the petitioner used to comment on the deceased and he acted as a mediator, there is no other allegation in the complaint. In the charge sheet also, it is mentioned that all the accused, which include the petitioner herein, gave assurance that they would look after the deceased very well. In the panchayat also, in the presence of the village elders and the Sub-Inspector of Police, K.K. Mitla P.S., all the accused gave assurance that they would look after the deceased very well. Except these two instances, there is no other allegation against the petitioner.

5. Per contra, learned counsel for respondent No.1 would contend that the petitioner along with his wife used to comment on the deceased and instigated Accused No.1 to harass the deceased. In fact, learned counsel for the petitioner also brought to the notice of this Court about the role played by the petitioner herein. But, unfortunately, the same is not borne out by record. For the purpose of framing a charge, the basic ingredient as contemplated Under Section 227 Cr.P.C. is that the charge sheet and the material enclosed thereto should make out a prima facie case to proceed with the case after framing a charge. For the sake of convenience, Section 227 Cr.P.C. is extracted hereunder:

“227. Discharge: If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

6. A perusal of the above would indicate that upon consideration of the record of the case and the document submitted therewith, if the Presiding Officer considers that there is no sufficient ground to proceed against the accused, he shall discharge the accused and record his reasons for doing so.

7. In the case on hand, a perusal of the complaint and the charge sheet would not indicate any prima facie case much less the ingredients for charging the petitioner herein for the offences under Sections 498 A, 302 read with 34 IPC. In these circumstances, this Court deems it appropriate to interfere with the orders passed by the Court below and discharge the petitioner for the charges levelled against him.

8. Accordingly, Criminal Revision Case is allowed by setting aside the orders passed in CrI.M.P.No.167 of 2017 in S.C.No.225 of 2016 dated 5.3.2018 on the file of the Court of the VI Additional District and Sessions Judge, Prakasam at Markapur.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

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P. KESHAVA RAO,J

Date: 11.7.2018  
KPM