

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.893 of 2015

ORDER:

Heard the learned counsel for the petitioners and the 2nd respondent.

The present revision case is filed questioning the orders passed in CrI.M.P.No.698 of 2014 in C.C.No.395 of 2011 dated 29.04.2015 on the file of the Special Judicial First Class Magistrate for PCR Cases, Warangal, dismissing the petition filed under Section 239 Cr.P.C. to discharge the petitioners for the offence under Section 406 IPC and Section 6 of the Dowry Prohibition Act, 1961 (for short, the Act")

The facts in brief are that the petitioners herein are charged for the above said offences in C.C.No.395 of 2011. Pending the said C.C., they filed CrI.M.P.No.698 of 2014 under Section 239 Cr.P.C., to discharge them for the charges levelled against them.

The question that crops up for consideration in the present revision case is:

Whether the petitioners can be tried for an offence under Section 406 IPC and Section 6 of the Act in the light of the judgment passed in C.C.No.200 of 2010 dated 09.09.2010 on the file of the VII Additional Judicial First Class Magistrate, Warangal?

The 2nd respondent being the legally wedded wife of the 1st petitioner lodged a complaint against petitioner Nos.1 and 3 for the offence under Section 498-A IPC and Sections 3 and

4 of the Act. After investigation, a charge sheet was laid. The learned Magistrate, after taking cognizance of the offence, numbered the case as C.C.No.200 of 2010. After full-fledged trial, petitioner Nos.1 and 3 are found not guilty for the offence punishable under Section 498-A IPC and Sections 3 and 4 of the Act and accordingly, they were acquitted by judgment dated 09.09.2010.

It is informed by the learned Public Prosecutor that the State has not filed any appeal against the said judgment.

Learned counsel appearing for the 2nd respondent also admitted that the 2nd respondent has not filed any revision and thereby the judgment in C.C.No.200 of 2010 has become final and binding on her.

If that be so, when once petitioner Nos.1 and 3 have been acquitted for the offence under Sections 3 and 4 of the Act, which contemplates penalty for giving or taking dowry and penalty for demanding dowry, the question of invoking Section 6 of the Act may not arise. In fact, in C.C.No.200 of 2010, after appreciation of the prosecution evidence, the learned Magistrate has categorically held that the ingredients of Section 3 of the Act are not proved beyond reasonable doubt against petitioner Nos.1 and 3 and they are not found guilty for the said offence. Similarly, the Court also held that the prosecution failed to prove that petitioner Nos.1 and 3 demanded dowry from the parents of the 2nd respondent either as part of agreement in payment of dowry at the time of

marriage and also failed to prove beyond reasonable doubt that petitioner Nos.1 and 3 demanded additional dowry of Rs.3 lakhs from the parents of the 2nd respondent after the marriage. Therefore, when once the said judgment was allowed to become final by not filing any appeal or revision, it is not open for the 2nd respondent to file a fresh complaint for the offence under Section 406 IPC and Section 6 of the Act.

For the purpose of convenience, Section 6 of the Act reads as under:

“6. Dowry to be for the benefit of the wife or her heirs.— (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman—

- (a) if the dowry was received before marriage, within three months after the date of marriage; or
- (b) if the dowry was received at the time of or after the marriage, within three months after the date of its receipt; or
- (c) if the dowry was received when the woman was a minor, within three months after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman.

- (2)
- (3)
- (4)”

From a perusal of the above said provision, it gives an indication that any dowry received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman. When such is the position and when the demand and acceptance of dowry is not proved against the petitioners, the question of transfer or return of the same will not arise. Therefore, this Court is of

the opinion that no *prima facie* case is made out against the petitioners for the offences against which they are charged.

Accordingly, the criminal revision case is allowed, setting aside the order passed in CrI.M.P.No.698 of 2014 in C.C.No.395 of 2011 dated 29.04.2015 on the file of the Special Judicial First Class Magistrate for PCR Cases, Warangal and the petitioners are discharged for the offence under Section 406 IPC and Section 6 of the Act. The bonds, if any, executed during the pendency of the C.C. shall be discharged.

Miscellaneous petitions, if any, shall stand closed.

P. KESHA RAO, J

Date: 06.09.2018.
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