

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1458 of 2018

ORDER:

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

The present criminal revision case is filed questioning the orders passed in CrI.M.P.No.654 of 2017 in S.C.No.65 of 2017 dated 16.03.2018 on the file of the Court of Sessions Judge, Mahila Court, Vijayawada, dismissing the petition filed under Section 227 Cr.P.C. to discharge the petitioner/A5 from the offence punishable under Section 498-A IPC.

The facts of the case are that the complainant, who is the father of the deceased, lodged a complaint before the Inspector of Police, Penamaluru Police Station, Mopidevi Mandal, Krishna District, on 11.11.2016 stating that he performed the marriage of his deceased daughter on 04.05.2001 with one Nagineeni Subramanyam resident of Srinivasnagar Colony, Kamaiah Thopu, Vijayawada. Out of the wedlock, they were blessed with two sons. However, his son-in-law was harassing his daughter mentally and physically. Pursuant to the said complaint, a crime was registered vide FIR.No.664 of 2016 under Sections 498-A and 306 IPC read with Section 34 IPC. After investigation, a charge sheet was laid before the Metropolitan Magistrate at Vijayawada. The same was committed to the Sessions Court Vide S.C.No.65 of 2017. In the charge sheet, the petitioner,

who is arrayed as A5, is charged for the offence under Section 498-A IPC. Pending the said case, the petitioner filed CrI.M.P.No.654 of 2017 under Section 227 Cr.P.C. to discharge her from the offence punishable under Section 498-A IPC. The 1st respondent State filed a counter and contested the same. After hearing, the Sessions Judge, Mahila Court, Vijayawada, dismissed the petition by orders dated 16.03.2018. Aggrieved by the same, the present revision case is filed.

Sri S. Satyanarayana Prasad, learned senior counsel appearing for Ms. C. Sindhu Kumari, submitted that there is no specific allegation against the petitioner except tagging her along with the 1st accused, as she being his sister. In fact, she is no way connected with the alleged harassment or death of the deceased. Even the charge sheet does not reveal any specific instances against the petitioner alleged to have subjected the deceased to harassment either mentally or physically. No specific instance or incident is referred mentioning the day, time or place except an omnibus allegation that the petitioner telephoned to A1 and instigated him to harass the deceased. In fact, the petitioner is all through in Hyderabad and her family is not residing in the same village where the deceased and A1 were living. Even if the petitioner is subjected to face the trial, no purpose would be served, since there is no incriminating material against her to convict for the alleged offence under Section 498-A IPC.

Learned senior counsel also submitted that the petitioner never interfered with the matrimonial affairs of the 1st accused and the deceased. In fact, since 1986, the petitioner is a permanent resident of Hyderabad living with her family and she has been falsely implicated by the de facto complainant only to harass her.

The learned Public Prosecutor opposed the petition and contended that the petitioner telephoned to the 1st accused and instigated him to harass the deceased and at this stage, the petitioner cannot be discharged. The truth or otherwise of the allegation made against the petitioner will be revealed only during the course of trial and he supported the impugned orders in the present revision case.

From the arguments of both the counsel and a perusal of the material on record, the undisputed facts are that the petitioner is the sister-in-law of the deceased. She is a permanent resident of Hyderabad, whereas the deceased along with A1 were living at Vijayawada. The allegation made against the petitioner in the complaint, charge sheet as well as the list of witnesses is that she instigated A1 to harass the deceased for additional dowry. In fact, a perusal of the complaint as well as the charge sheet discloses the only allegation against the petitioner is that she from Hyderabad called A1 and instigated him to harass the deceased. Except the said allegation, which is very vague in nature, there is no other allegation against the petitioner. Even a perusal of the

statements recorded by the prosecution, there is no other allegation. If the said allegation is taken into consideration, no case is made out against the petitioner for commission of any offence much less the offence under Section 498-A Cr.P.C.

To appreciate the issue cropped in the present revision case that whether any prima facie case is made out for the purpose of framing a charge against the petitioner for the offence under Section 498-A Cr.P.C. Section 227 Cr.P.C. contemplates as under:

‘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.”

A perusal of the above said provision indicates that 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, the Presiding Officer considers that there is no sufficient ground for proceedings against the accused, he/she can be discharged. In the case on hand, the record and the material enclosed thereto does not reveal and establish any prima facie case for commission of offence under Section 498-A against the petitioner. Therefore, even if the petitioner is allowed to undergo and face the trial, there is no possibility of her being convicted. In such circumstances, asking the petitioner to

face the trial would amount to abuse of process of the Court. Therefore, this Court is of the opinion that there is no prima facie case to frame a charge for the offence under Section 498-A against the petitioner and continuation of proceedings would amount to putting the petitioner to harassment and lot of physical as well as mental agony apart from facing embarrassment in the society.

In these circumstances, the criminal revision case is allowed setting aside the order dated 16.03.2018 passed in Crl.M.P.No.654 of 2017 in S.C.No.65 of 2017 on the file of the Court of the Sessions Judge, Mahila Court, Vijayawada, and the petitioner is discharged for the offence under Section 498-A IPC in S.C.No.65 of 2017 in the interest of justice.

Miscellaneous petitions, if any, shall stand closed.

Date: 22.06.2018.
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P. KESHAVA RAO, J