THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL REVISION CASE No.547 of 2013

ORDER:

The challenge in the Criminal Revision Case is the order dated 12.12.2012 passed in M.P.No.7611 of 2012 in C.C.No.905 of 2012 by the III Additional Chief Metropolitan Magistrate, Hyderabad, dismissing the petition filed by petitioner-A2 under Section 239 Cr.P.C. to discharge her from the case.

The prosecution case briefly is that LW1/defacto-complainant, who is the ex-wife of A1, took mutual divorce and living separately from her husband since April 2008. LW.1 had invested Rs.2,00,000/- in February 2008 with Reliance Natural Resources Fund, Somajiguda, Hyderabad, vide Foil No.41477727381 and nominated ICICI Bank Limited, Begumpet, Hyderabad. On 14.09.2010, LW.1 visited Reliance Natural Resources Fund and requested them to redeem her account and she was informed by them that her funds were already redeemed on 09.09.2009 and that amount was transferred to Vijaya Bank, Ameerpet Branch. Accordingly, she was furnished a copy of letter dated 09.09.2009 (purported to have been submitted by her) and a cancelled cheque bearing No.465970 of Vijaya Bank, Ameerpet Branch. In utter surprise, she found that the signatures on the said letter and cheque are forged and do not belong to her. On verification with Vijaya Bank, Ameerpet

Branch, she came to know that cheque bearing No.465969 dated 03.10.2008 for Rs.5,92,681/-, cheque bearing No.465971 dated 12.11.2009 for Rs.1,93,500/- and cheque bearing No.465972 dated 12.11.2009 for Rs.15,000/- were presented and were honoured by the bankers. The cheque bearing No.465969 dated 03.10.2008 for Rs.5,92,681/- was credited on the same day into Account No.407901011000906, which is in the same branch of Vijaya Bank and belongs to petitioner herein, who is her mother-in-law. The other two cheques bearing Nos.465971 and 465972 dated 12.11.2011, which are self cheques, were withdrawn by the accused person on the same day. Thus, it clearly established the involvement of the then Branch Manager of Vijaya Bank, Ameerpet Branch, Hyderabad, presently working at Benz Circle, Vijayawada, who simply ignored to compare the signature of account holder with the signatures on the alleged two self cheques. Thus, the accused persons have forged the signatures of LW.1 and got the money transferred with the help of A5. They also gave a letter dated 09.09.2009 to Reliance Natural Resources Funds by forging the signature of LW.1 and also on the blank cheque. Because of the said letter, LW.1's account was transferred to Vijaya Bank, Ameerpet from where the amount was drawn using the forged cheques and by impersonation. Thus, the Investigating Officer filed charge-sheet against A2 & A5 punishable under Sections 420, 468, 471 and 409 IPC and reserved right to file supplementary charge-sheet against A1, A3 and A4.

Aggrieved by the same, the petitioner filed Crl.M.P.No.7611 of 2012 under Section 239 Cr.P.C. to discharge her claiming that there was no material to frame charge against her.

It is pleaded by petitioner that both her son and the defacto-complainant could not amicably live together and therefore, on the elders' advice they have filed O.P.No.1181 of 2008 for mutual divorce. In the said divorce proceedings, the defacto-complainant gave a written affidavit before the Court specifically stating in para '10' of her affidavit that in view of the settlement of all issues including the moveable and immoveable properties both the parties have no claims or disputes of any nature against each other. After filing such affidavit, the Family Court vide its order dated 25.05.2009 dissolved the marriage by granting decree of divorce. Even before filing the aforesaid O.P.No.1181 of 2008, the defacto-complainant has taken up all the articles and nothing remained in possession of the petitioner-A2 and her family members. It is further pleaded that the defacto-complainant married again and living with her second husband and, therefore, the continuation of criminal case is of no utility for the complainant as well as for the accused. On such main ground, the discharge was sought for. However, the trial Court observed there was no whisper of any financial matters in the evidence; further, supplementary charge-sheet has to be filed against other accused; the expert gave opinion stating that the signatures on disputed cheques were forged one and therefore, at this stage, it is not proper to evaluate the evidentiary value of the documents as the same has to be adjudicated at the time of trial. Accordingly, the trial Court dismissed the application. Hence, the Criminal Revision Case.

Heard the learned counsel for petitioner and the learned Public Prosecutor for the State. Perused the record.

As rightly observed by the trial Court, the plea of the petitioner is that the defacto-complainant gave an affidavit in O.P.No.1181 of 2008 stating that all the matters relating to movable and immovable properties were settled. The said affidavit contents can be considered only after full-fledged trial with reference to other material on record and not during enquiry in a discharge application. Further, the Investigating Officer reserved his right to file supplementary charge-sheet against other accused. So merely on the ground that the defacto-complainant and her former husband have obtained divorce by mutual consent in O.P.No.1181 of 2018, the case against the petitioner cannot be discharged. The petitioner can put forth her defence by attending the trial Court. The impugned order does not suffer from any infirmity or illegality to intervene. Hence, the Criminal Revision Case is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed. However, having regard to the fact that A2 is an aged lady, her appearance before the trial Court is dispensed with except on the occasions when the trial Court requires her attendance.

Miscellaneous petitions, if any, pending, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 10-12-2018
Prv