

HON'BLE SRI JUSTICE P. KESHA VA RAO

Criminal Revision Case No.856 of 2014

ORDER:

Heard the learned counsel for the petitioners. In spite of service of notice on the first respondent, none appeared.

The present criminal revision case is filed challenging the order, dated 09.04.2014 passed in CrI.M.P.No.20 of 2013 in C.C.No.215 of 2011 on the file of the Court of the Additional Judicial First Class Magistrate, Ponnur, Guntur District, dismissing the petition filed to discharge the petitioners under Section 239 cr.P.C.

The brief facts of the case are that the first respondent lodged a complaint against the petitioners and A-1 to A-3 for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. Pursuant to the said complaint, a crime was registered. After investigation, a charge sheet was filed before the Additional Judicial First Class Magistrate, Ponnur, Guntur District. In the charge sheet, the petitioners were deleted from the array of the accused since they are residing at a far off place from the matrimonial house of the first respondent. However, the Court below, taken cognizance of the offences against the petitioners also and numbered the case as C.C.No.215 of 2011. During the pendency of the calendar case, the petitioners filed CrI.M.P.No.20 of 2013 under Section 239 Cr.P.C. to discharge them for the charges levelled against them. After hearing, the learned Magistrate

dismissed the petition by orders dated 09.04.2014. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel appearing for the petitioners would contend that in the complaint lodged by the first respondent, no allegations are made against the petitioners except the omnibus allegations. From the perusal of the complaint, it is revealed except stating that the petitioners along with other accused harassed the first respondent, nothing has been stated. On investigation, the charge sheet was filed before the Court below. Even in the charge sheet also, the names of the petitioners have been deleted from the array of the accused since no case was made out against them on the ground that they were living far away from the place of residence of the first respondent.

Having heard the learned counsel for the petitioners and from the perusal of the record, it is revealed that the petitioners were charged for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act in C.C.No.215 of 2011. From the perusal of the complaint/charge sheet, there is absolutely no allegation made against the petitioners. On the other hand, in the charge sheet, the names of the petitioners were deleted from the array of the accused. Therefore, this Court is of the opinion that the Court below committed an irregularity in dismissing the petition filed by the petitioners. Even from the impugned order, it is revealed that the petitioners used to make calls on phone and instigated A-1 to A-3 to harass the first respondent. The said allegation is not made even by the first respondent in the

complaint. Therefore, this Court is of the opinion that the impugned order is liable to be set aside.

Accordingly, the criminal revision case is allowed setting aside the order dated 09.04.2014 passed in CrI.M.P.No.20 of 2013 in C.C.No.215 of 2011 on the file of the Court of the Additional Judicial First Class Magistrate, Ponnur, Guntur District. Consequently, the petitioners are discharged for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

Miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

Date:10.10.2018
CCM

P. KESHAVA RAO, J



HONOURABLE SRI JUSTICE P. KESHAVA RAO



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ccm