

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1250 of 2017

ORDER:

Heard the learned counsel for the petitioner and the respondents.

The present revision case is filed questioning the orders dated 24.03.2017 passed in CrI.M.P.No.240 of 2015 in S.C.No.21 of 2015 on the file of the learned Special Sessions Judge for Trial of SCs and STs Cases-cum-VIII Additional Sessions Judge, Ananthapuram, dismissing the petition filed under Section 227 Cr.P.C., to discharge the petitioner for the offence under Sections 420, 493, 354 (B) read with 34 IPC.

The facts in brief are that the 2nd respondent herein, who is the de facto complainant, was working as a sales girl in Soni (Camera) Company, DCMS Road, Kamalanagar, Ananthapuram. The petitioner is an auto driver regularly used to supply goods in his auto to Soni Company. In that connection, he developed intimacy with the de facto complainant. With the said acquaintance, he induced her to marry her and set up family in a rented house in Teachers Colony, opposite to Animals Market Yard, Gooty Road, Ananthapuram and lived together as husband and wife without marriage. The mother of the petitioner also joined them and lived with them in the same house and used to abuse the de facto complainant in the presence of the public referring to her caste and the petitioner used to support her.

The 2nd respondent unable to bear the torture in the hands of the petitioner and his mother informed the same to the caste elders, whereupon they were admonished. But the mother of the petitioner caught hold of the tuft of the 2nd respondent, and dragged her and then the petitioner caught hold of the upper portion of the sari and put her down and beat indiscriminately. On 11.08.2014, at about 9.00 p.m., the petitioner and his mother necked out the 2nd respondent from their house. Pursuant thereto, the 2nd respondent lodged a complaint resulting in registration of Crime No.218 of 2014 for the offences under Sections 420, 493, 354 (B) read with 34 IPC and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (for short, "the Act").

After investigation, charge sheet was filed against the petitioner and his mother for the above said offences. The Court below, after taking cognizance of the said offences, registered the case as S.C.No.21 of 2015. Pending the said case, the petitioner filed CrI.M.P.No.240 of 2015 to discharge him for the above said offences. The 1st respondent State filed counter denying the allegations mentioned therein and contested the same. After hearing, the Court below dismissed the said petition by orders dated 24.03.2017. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioner contended that even if all the allegations made by the 2nd respondent are

taken to be true, they do not constitute an offence under Section 493 IPC. The contents of the complaint as well as the charge sheet would not disclose the essential ingredients for attracting the offence under Section 493 IPC, such as, deceit by the accused causing a false belief in the victim girl in the existence of a lawful marriage between them and the accused having sexual intercourse with the victim girl after having caused such belief. The said aspects are absent in the instant case. No *prima facie* case is made out for the offence under Section 345-B against the petitioner. As far as Section 345-B is concerned, there shall be an intention of disrobing or compelling the woman to be naked. Therefore, mens rea is the essential ingredient for the offence and the same is missing in the case.

Per contra, the learned Public Prosecutor appearing for the 1st respondent State supported the impugned order and submitted that *prima facie* case is made out for the offences against which the petitioner is charged.

Having heard both the counsel and a perusal of the material on record would disclose that there is *prima facie* material from the contents as well as 161 Cr.P.C. statements of all the witnesses that the petitioner and the 2nd respondent lived together as wife and husband for a long period in the locality where the neighbours came to know through the petitioner that he married the 2nd respondent as an inter caste marriage. The mother of the petitioner also came and

lived with them in the very same house by maintaining relationship as that of wife and husband between the petitioner and the 2nd respondent. In these circumstances, when the petitioner and the 2nd respondent lived as wife and husband and when the petitioner and his mother assaulted the 2nd respondent in public by pulling the upper portion of her sari and taking her caste name and the petitioner having sexual intercourse with her, would *prima facie* satisfy the basic ingredients of the offences under Sections 354-B, 493 and 420 IPC. For the purpose of framing charge, what all that is required is only a *prima facie* case for commission of an offence, enabling the Court to frame a charge and proceed with the matter.

In the case on hand, a perusal of the material on record shows that there is *prima facie* material for framing charges against the petitioner for the offences against which he is charged. Therefore, this Court is of the opinion that there is no illegality or irregularity in the orders passed by the Court below in dismissing the petition for discharge of the petitioner.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 09.07.2018.
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