

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.2075 of 2014

ORDER:

Heard the learned counsel for the petitioners and the learned Public Prosecutor for the respondent State.

The present revision case is filed challenging the orders passed in CrI.M.P.No.1635 of 2014 in C.C.No.1 of 2014 dated 17.09.2014 on the file of the Metropolitan Sessions Judge, Hyderabad, dismissing the petition filed under Section 239 Cr.P.C., to discharge the petitioners, who are A3 and A5, for the offences against which they are charged.

The facts in brief are that one Smt. Susheela i.e., A1 used to sell stainless steel vessels, sarees to customers on instalment basis. In the year 1975, she started chit business with groups of small value of Rs.2,000/- and Rs.5,000/-. After gaining the confidence of the public, she started new chits ranging from Rs.20,000/- to Rs.1,00,000/- and started schemes of gold and sarees in which she enrolled public as members and collected money in instalments and at the end of the scheme she would give them gold/sarees for the value collected by her. Apart from doing the said business, on the finance given by some members in the form of deposits she used to offer high rates of interest. At the time of complaint, around 400 people were members in various chit groups in addition to another 500 members, who were members in gold and saree scheme. As she was not paying the chit amount, which was due to the subscribers even on bidding or on maturity of the chits, and on the pressure from the depositors, she (A1) fled away from Hyderabad. In fact, one of such depositors

by name Smt. B. Rama Devi lodged a complaint against A1 on 23.12.2014, for non-payment of Rs.5,00,000/-. Pursuant to the said complaint, a crime was registered vide Crime No.617 of 2004 for the offence under Sections 420, 406 IPC and Section 5 of APPDEF Act and Section 4 of the Prize Chits and Money Circulation Scheme (Banning) Act. Pursuant to the said crime on 23.12.2004, the concerned police have investigated the crime and filed charge sheet. The learned Magistrate, after taking cognizance of the offence, numbered the case as C.C.No.1 of 2014. During the pendency of the C.C., the petitioners filed a petition in CrI.M.P.No.1635 of 2014 under Section 239 Cr.P.C., to discharge them for the offence against which they are charged. After hearing, the said petition was dismissed by orders dated 17.09.2014. Aggrieved by the same, the present revision case is filed.

Learned counsel appearing for the petitioners would contend that as far as the petitioners are concerned, there is absolutely no allegation either in the complaint or in the charge sheet filed by the prosecution. He has brought to the notice of this Court certain portions in the complaint as well as charge sheet which show *prima facie* allegation against A1. As far as the 1st petitioner (A3) is concerned, in the charge sheet except stating that he actively assisted A1, there is no other allegation. As far as the 2nd petitioner (A5) is concerned, there is absolutely no allegation against him in the charge sheet. If that be so, the proceedings initiated against the petitioners cannot be sustained.

Learned Public Prosecutor appearing for the respondent State has supported the impugned order.

At the time of framing charge under Section 239 Cr.P.C., what all that is required to be looked into is whether any *prima facie* case is made out for framing charge against the accused and to proceed further in the matter. As contended by the learned counsel of the petitioners, a perusal of the charge sheet would not indicate the same.

Learned Public Prosecutor, after going through the statements of witnesses as well as the documentary evidence collected during the course of investigation, fairly conceded that the names of the petitioners, who are A3 and A5, are not referred to. Therefore, this Court is of the opinion that no *prima facie* case is made out against the petitioners for commission of any offence much less for the offence against which they are charged.

Accordingly, the criminal revision case is allowed, setting aside the proceedings initiated against the petitioners for the offence under Sections 420, 406 IPC and Section 5 of APPDEF Act and Section 4 of the Prize Chits and Money Circulation Scheme (Banning) Act in C.C.No.1 of 2014 and they are discharged.

P. KESHAVA RAO, J

Date: 10.09.2018.
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