

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3157 of 2017

JUDGMENT:

The accused Nos.1 to 7 in C.C. No.689 of 2016 on the file of Judicial Magistrate of First Class, Special Mobile Court, Eluru, are the present revision petitioners. Challenging the order dated 11.09.2017 in Criminal M.P. No.2552 of 2017 in the aforesaid Calendar Case, they filed the present Criminal Revision Case under Section 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'the Code').

2. By the aforesaid order, the learned Magistrate refusing to discharge them, rejected their request, made under Section 239 of the Code for the offences punishable under Sections 498-A and 420 read with Section 34 of Indian Penal Code and Sections 3 and 4 of Dowry Prohibition Act, having felt that there is *prima facie* material available on record, and also placed reliance in **Omkaar Nath Mishra and others v. State (NCT of Delhi) and another** [(2008) 2 SCC 561] and **Sheoraj Singh Ahlawat and others v. State of Uttar Pradesh and another**, in Criminal Appeal No.1803 of 2012 (Arising out of S.L.P. (CrI.) No.4649 of 2010).

3. Heard Sri Gajanand Chakravarthy, learned counsel for the petitioners and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. Learned counsel for the petitioners would submit that the *de facto* complainant with an ill motive has implicated the relations of

her husband, who is the 1st petitioner herein, though, there is no material on record collected by the investigating agency to substantiate the offences alleged against the petitioners even at this stage. His submission is that, at the most, it can be said that there is some material against the 1st petitioner alone, but not against others, however, they are roped in deliberately by the *de facto* complainant. He would, submit that the learned trial Court did not properly assess the statements of the witnesses and the First Information Report in the present Revision Case.

Learned counsel for the revision petitioners would submit that the petitioner No.2-accused No.2, father of petitioner No.1 is no more.

5. *Per contra*, the learned Assistant Public Prosecutor for the State of Andhra Pradesh would submit that there is strong *prima facie* material even against the petitioners 2 to 7, and it cannot be said that there is no material at all, and, thus, supports the order of the learned Magistrate.

6. Learned counsel for the revision petitioners also placed Section 161 Cr.P.C. statements by filing a separate Memo.

7. The statements of witnesses of L.Ws.1 to 7, on a perusal, would clearly reveal the participation of all the petitioners herein and, in fact, the statements would reflect that all of them threatened her besides subjecting her to cruelty for continuous period by hurling abuses to sign on the divorce papers for not meeting their demand of getting additional dowry, and even a mediation was conducted through elders. When these allegations are occurring in the

statements made by the witnesses under Section 161 of Cr.P.C. besides the complaint averments, certainly, it cannot be said that there is no *prima facie* material to proceed with framing of charges.

8. It is no doubt true, this Court, earlier, when the petitioners made an attempt to get proceedings quashed, while not acceding to their request in Criminal Petition No.6581 of 2015, and again in W.P. No.44861 of 2016, however, gave liberty to file discharge application before the trial Court observing that on such application being filed, the trial Court shall consider the same in accordance with law. But, that cannot be a ground to hold that this Court did find some favourable material on record to entertain the petitioners herein for discharge.

9. There is no merit in the present Criminal Revision Case, and, accordingly, the same is dismissed at the stage of admission.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Revision Case shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 05.01.2018

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