

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.1969 of 2018

ORDER:

The present revision is filed by accused No.2 under Sections 397 and 401 Cr.P.C., aggrieved by the order, dated 02.07.2018, passed in CrI.M.P.No.494 of 2015 in C.C.No.221 of 2013 on the file of the VI-Additional Chief Metropolitan Magistrate, Hyderabad, wherein and whereunder the application for discharge filed by the petitioner/accused No.2 was dismissed.

The 2nd respondent/*de facto complainant* filed a private complaint against the revision petitioner/ A2 and two others for the offences punishable under Sections 420, 423, 468, 120-B I.P.C. before the XIV Additional Chief Metropolitan Magistrate, Hyderabad, who referred the same to the police, Panjagutta Police Station, under Section 156 (3) Cr.P.C. for investigation and report. The Sub Inspector of Police, Panjagutta Police Station registered a case in Crime No.87 of 2001 under the aforesaid offences. Eventually, after completion of investigation, a charge sheet was laid under the aforesaid offences against the revision petitioner/ A2 and others and the same was numbered as C.C.No.221 of 2013.

The allegation in the charge sheet is that A1, A2, who is the revision petitioner herein, and A3 along with another lady by impersonating the 2nd respondent/*de facto complainant*, got executed

a Gift Settlement Deed in favour of A-1 as if it was executed by the 2nd respondent/de facto complainant.

Heard learned Counsel for the revision petitioner, learned Public Prosecutor appearing for the 1st respondent/State and the learned Counsel appearing for the 2nd respondent/*de facto* complainant.

Learned Counsel for the revision petitioner submitted that there is no whisper in the charge sheet that the revision petitioner/A2 has involved in the case. He further submitted that the charges to be framed against the revision petitioner are without any supporting material. He further submitted that the statement of witnesses recorded under Section 161 Cr.P.C. does not disclose anything as against the revision petitioner/A2 and the documents filed along with the charge sheet do not make out a prima facie case against the revision petitioner. He further submitted that the only allegation against the revision petitioner/A2, who is a friend of A-1, is that he has signed as an attester to the Gift Settlement Deed, which is a sham document and that the attesters are not liable to be prosecuted for any of the offence merely on the ground that they have attested the document and in support of the said contention he relied upon a decision of this Court in *Dondapati Srinivasa Rao and others v. State of Telangana and another*¹.

¹ 2018 (1) ALD (CrL.) 970

Learned Additional Public Prosecutor opposed the revision, stating that, after considering the entire material, the trial Court dismissed the discharge application filed by the revision petitioner/A2.

A perusal of the material on record would disclose that the 2nd respondent/ *de facto complainant*, who was working as a Staff Nurse in Government General and Chest Hospital, Hyderabad, got married A-1 on 30.11.1977 and out of their wedlock, she gave birth to two male children. It is alleged that out of the earnings of the 2nd respondent/*de facto complainant*, she purchased an immoveable property bearing H.No.6-3-399/1, admeasuring 98 square yards, situated at Panjagutta, Hyderabad, under a registered sale deed. Subsequently, the 2nd respondent/*de facto complainant*, due to the harassment of A-1, executed GPA in the name of A-1 and also Gift Deed by gifting 10% of the undivided share of the aforesaid property in favour of her two sons and thereafter the GPA was revoked by executing a deed of revocation. It is further alleged that A-1 got executed a Gift Settlement Deed on 29.10.1999 by impersonating the 2nd respondent/*de facto complainant*, wherein Accused No.2, who is the revision petitioner herein, and A-3 signed as witnesses in the said document, which was executed before the Sub-Registrar. Thus, the allegation in the charge sheet is that the revision petitioner/A2 along with other accused has committed cheating, forgery, impersonation of the complainant and in collusion

with A-1, the revision petitioner and A3 attested the aforesaid Gift Settlement Deed. The learned trial Court after careful consideration of the material available on record, has dismissed the petition filed by the petitioner/accused No.2 on the following grounds:-

"this is not the stage to decide the role of A2 whether he is involved in this case or not because as prima facie material is available against the petitioner in this case. I feel that mere non- mentioning everything in 161 Cr.P.C. statement of LW.1 does not give any right to the petitioner for his automatic discharge from this case and the role played by the petitioner/A2 will be established only after full fledged trial. In my view the record placed before this Court is showing prima facie allegations against the petitioner/A2, hence I am not inclined to allow the petition."

The issue as to whether the revision petitioner/ A2 has signed as witness on the Gift Settlement Deed, dated 29.10.1999 in collusion with accused Nos.1 and 3, is a disputed question of fact which has to be gone into only during the course of full fledged trial. Hence, this Court is of the view that there is no illegality or irregularity in the order passed by the trial Court.

Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending, shall stand dismissed.

JUSTICE G. SRI DEVI

09.09.2019
Gkv/Gsn.

