HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE No.88 of 2019

ORDER:

Heard learned counsel for the petitioner/A2 and learned Additional Public Prosecutor for the 1st respondent State.

2. The present revision case is filed challenging the orders passed in Crl.M.P.No.1965 of 2017 in C.C.No.1 of 2014 dated 29.11.2018 on the file of the Metropolitan Sessions Judge, Hyderabad, dismissing the petition filed under Section 239 Cr.P.C., to discharge the petitioner, who is A2, for the offences against which she is charged.

3. 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 offences 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 petitioner filed a petition in Crl.M.P.No.1965 of 2017 under Section 239 Cr.P.C., to discharge her for the offences against which she is charged. After hearing, the said petition was dismissed by order dated 29.11.2018. Aggrieved by the same, the present revision case is filed.

4. Learned counsel appearing for the petitioner would contend that as far as the petitioner is 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 petitioner/A2 is concerned, in the charge sheet except stating that she being the daughter of A1 and A3 actively assisted A1 in the business, there is no other allegation. If that be so, the proceedings initiated against the petitioner cannot be sustained.

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

6. 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 petitioner, a perusal of the charge sheet would not indicate the same.

7. Learned Additional 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 name of the petitioner, who is A2, is not referred to. Therefore, this Court is of the opinion that no *prima facie* case is made out against the petitioner for commission of any offence much less for the offence against which she is charged.

8. Accordingly, the criminal revision case is allowed, setting aside the proceedings initiated against the petitioner/A2 for the offences 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 she is discharged.

G. SRI DEVI, J

30th January, 2020.
Note:
Issue CC tomorrow.

sj