

HON'BLE SMT. JUSTICE G. ANUPAMA CHAKRAVARTHY

Crl.R.C.No.177 OF 2022

ORDER :

This Criminal Revision Case is filed against the order dated 03.03.2022 in Crl.M.P.No.834 of 2020 in SC.No.83 of 2019, on the file of Special Sessions Judge For Expeditious Trial and Disposal Of Rape & POCSO Act Cases, at Bhongir.

2. Heard Sri V.Pattabhi, learned Senior Counsel appearing for petitioners and the learned Public Prosecutor for respondent.

3. The brief facts of the case, in nutshell, are that the discharge petition was filed by the petitioners under Section 227 of Cr.P.C to discharge them from the alleged offences under Sections 370(1) & (5), 372, 373, 366(A), 370(A), 120 (B) of IPC, Section 17 of POCSO Act, 2012 and Sections 75 and 81 of Juvenile Justice Act, 2015.

4. The trial Court, after considering the documentary evidence and rival contentions of the parties, has come to a

conclusion that the material filed along with the charge sheet shows *prima facie* case, therefore, dismissed the petition.

5. Being aggrieved by the same, the present Criminal Revision Case is filed by the accused.

6. On considering the entire material on record and hearing the rival contentions of learned senior counsel for the petitioners as well as the learned Public Prosecutor, *prima facie*, it is noticed that the impugned order was not passed on consideration of actual material on record and it was not a reasoned order, and therefore, there is every necessity for the trial Court to examine the statements of the witnesses, the documents filed along with the charge sheet and all other related aspects and to give a finding as to whether the accused has to be discharged in the case or not, basing on the material available on record.

7. Taking into consideration that the order of the trial Court was not a reasoned order, this Court is of the considered view that it is a fit case to remand the matter back to the trial Court in

order to consider the documents filed by the prosecution which are annexed to the charge sheet and also to consider the contentions raised by the petitioners/accused and to conclude whether *prima facie* case is made out or not, and if *prima facie* case is not made out, then it is a fit case to discharge the accused and if *prima facie* case is made out, the Court shall proceed with framing of charges, for which, a reasoned order has to be passed by the Court below.

8. It is the specific contention of the learned Public Prosecutor that the finding of the trial Court is that inspite of giving ample opportunity, the petitioners have not availed the same and sought adjournments, therefore, the trial Court was constrained to pass the impugned order.

9. Taking into consideration the rival contentions of the learned senior counsel for the petitioners as well as the learned Public Prosecutor, the impugned order is hereby set aside and the matter is remanded to the trial Court to consider all relevant material and to pass a reasoned order afresh. The parties shall

cooperate with the Court and shall not avail further time for advancing their arguments. Further, the trial Court shall dispose of the case on merits, on or before 13.03.2023.

10. With the above said observations, this Criminal Revision Case is allowed.

Pending miscellaneous applications, if any, shall stand closed.

G.ANUPAMA CHAKRAVARTHY, J

Date: 08.02.2023
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