

(2015) 07 KAR CK 0243
In the Karnataka High Court
Case No : Criminal R.P. No. 655 of 2015

T.R. Abdul Gani and Others	Vs	APPELLANT
State of Karnataka and Others		RESPONDENT

Date of Decision : 20-07-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 190, 200, 227, 397(1)
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 307, 323, 324, 34, 494

Citation : (2015) 07 KAR CK 0243

Hon'ble Judges : L. Narayana Swamy, J

Bench : Single Bench

Advocate : M. Shashidhara, for the Appellant; Chetan Desai, HCGP, Advocates for the Respondent

Final Decision : Dismissed

Judgement

L. Narayana Swamy, J—In this revision petition, under Section 397(1) r/w Sec. 401 of Cr.P.C., the petitioners have challenged the Order dated 06.04.2015 in S.C. No. 172/2014 passed by the II Addl. District and Sessions Judge at Hassan dismissing the application filed by the petitioners under Section 227 of the Cr.P.C. to discharge them from the charges leveled under Sections 323, 324, 504, 506, 307 r/w Sec. 34 of IPC. The revision petitioners are accused before the trial Court.

2. In nut-shell the case of the prosecution is:

"One Smt. Sameerunnisa, who is the Complainant, got married to accused No. 1 - Abdul Gam, petitioner No. 1 herein, on 16.02.2004 at Madeenashadi Mahal in Arasikere. After the marriage they lived happily for some years. Thereafter dispute began and petitioners have started ill-treating the wife. When the physical and mental torture and demand for dowry were not tolerable by the wife on 16.05.2013 she filed a complaint with Thilak Park Police Station, Tumkur. On receipt of the complaint the respondent - Police have registered a case against

these petitioners for the offences punishable under Sections 498(A), 494, 506 r/w Sec. 34 of IPC and Sections 3 and 4 of the DP Act in Cr. No. 122/2013. After completion of the investigation the respondent - Police filed a charge sheet and the matter is pending."

3. Further, it is the case of the Complainant that she filed one more complaint on 18.06.2013 before the Arasikere Police Station with the allegation that when she was residing in her parental house the petitioners came there and assaulted her. The respondent - Police on receipt of the said complaint registered it in NCR No. 54/2013, but the same came to be closed on the same day.

4. The Complainant aggrieved by the closure of the case preferred a private complaint under the provisions of Section 200 of Cr.P.C. on 02.07.2013 against the petitioners alleging offences punishable under Sections 323, 324, 506, 504, 307 r/w Sec. 34 of IPC before the Civil Judge (Sr. Dvn.) & JMFC, Arasikere. The learned Magistrate registered it in PCR No. 119/2013 and after recording the evidence and hearing took cognizance of the said offences and under Section 156(3) of Cr.P.C. directed the respondent - Police to register a case, which came to be registered in Cr. No. 231/2013. In the said case the petitioners have been arrayed as accused.

5. Aggrieved by the action of the learned trial Judge in taking cognizance and registering the case against them, the petitioners have filed application under Section 227 of Cr.P.C. to discharge them of the offences alleged before the learned Sessions Judge. The learned Sessions Judge after considering the material on record found that there is a case made out against the petitioners and accordingly, it rejected the application filed by the petitioners. Aggrieved by the said order the petitioners are before this Court in this revision petition.

6. I have heard both the learned counsel appearing for petitioners - accused and learned Government Pleader for respondent - State. Perused the records.

7. The learned counsel appearing for the petitioners would submit that these petitioners are innocents and a false case has been registered against them. The Complainant is in the habit of filing cases against these petitioners with an intention to harass them. He submits that the marriage between the Complainant and the Petitioner No. 1 is solemnized on 16.02.2004. He contends that for more than a decade the Complainant has not alleged any ill-treatment or harassment at the hands of these petitioners. But suddenly on 16.05.2013, the Complainant lodged a complaint with the respondent -Police making false and frivolous allegation against these petitioners. The said case has been investigated by the respondent - Police and after investigation charge sheet is filed. The said case in Cr. No. 122/2013 is pending in the Court at Tumkur. The Complainant on 18.06.2013 again lodged one more complaint with Arasikere Police making several allegations against them and it is registered in NCR No. 54/2013 and the same was closed on the same day.

8. Being not satisfied with the closure of the case the Complainant preferred a

private complaint under Section 200 Cr.P.C. before Civil Judge (Sr. Dvn.) & JMFC, Arasikere on false allegations and frivolous documents. He contends that after hearing the learned Judge surprisingly taken cognizance and a case came to be registered against them in Cr. No. 231/2013. He submits for no fault on their part all the petitioners are undergoing harassment in the hands of the Complainant. They are innocent and a false case has been registered against them. They hail from a respectable family having deep roots in the society. Thus, they filed application under Section 227 Cr.P.C. seeking to discharge them of the offences alleged. But the learned Sessions Judge not convinced by the grounds urged by the petitioners dismissed their application. Therefore, the learned counsel contends that they are entitled to be discharged of the offences alleged.

9. Per contra, the learned Government Pleader would contend that the Court below on perusal of the entire materials placed on record and on proper appreciation has passed the impugned order declining to discharge the petitioners of the offences alleged. It is further submitted that there is no merit in the revision petition filed by the petitioner and therefore, the question of interference by this Court with the impugned order passed by the learned Sessions Judge, does not arise. Hence, he prays to dismiss the revision petition.

10. In view of the submissions made by both the learned counsel appearing for the parties, I have examined the materials placed on record. It is borne out from the records that on a private complaint filed by the wife of the Petitioner No. 1 the trial Court on appreciation of material on record took cognizance and registered a case against these petitioners. The Complainant had produced statement of witnesses along with wound certificate before the learned trial Judge. Being satisfied with the materials so produced the learned Magistrate had taken cognizance.

11. On the application by the petitioners seeking to discharge them of the offences alleged, the learned Sessions Judge found that there is sufficient materials to frame charge against these petitioners and hence, the application under Section 227 of Cr.P.C. is not maintainable. The application came to be dismissed.

12. On perusal of the grounds urged by the petitioners, I found that one of the offences alleged against these petitioners is under Section 307 of IPC. The said section is very clear that whoever make an attempt with an intention to murder the victim with dangerous weapons and so assaults the victim to sustain grievous injuries, is punishable with Section 307 of IPC. In the present case, the statement of the victim is very clear on the point that her husband and relatives, petitioners herein, have visited her parents' house where she stay, and attacked her. The Petitioner No. 1 tried to throttle the neck of the victim Complainant and the other persons assaulted on her body. During the investigation the Investigation Officer found sufficient materials against these petitioners and thus he filed a charge sheet for the said offences.

13. Further, when the Investigation Officer has placed all the relevant materials on record, the learned Magistrate on perusal of the same and on examination was satisfied and came to the conclusion that there is a case made out against these petitioners and took the cognizance and directed the respondent - Police for investigation. Before exercising the powers vested in him under the provisions of Section 190 of Cr.P.C., the learned Magistrate referred the decisions of the Apex Court.

14. In my considered opinion, there is no error found in the order passed by the learned Magistrate, which calls for no interference from this Court. Further, the learned Sessions Judge has also gone through the statement of witnesses and other relevant material on record and came to the conclusion that these petitioners are not entitled to be discharged. Even the order passed by the learned Sessions Judge is well founded and no interference is called for.

15. Accordingly, the revision petition is devoid of merit and it is dismissed.