

THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Criminal Revision Case No.147 of 2023

ORDER:

This revision under Sections 397 & 401 CrPC is preferred aggrieved by order, dated 28.11.2022, dismissing CrI.M.P.No.151 of 2022 in S.C.No.346 of 2013 on the file of the Court of IV Additional District & Sessions Judge-cum-Special Judge for trial of Offences against Woman, Ananthapuramu, filed under Section 311 CrPC to recall PWs 1 to 3, 6 & 10 and permit the petitioners to further cross examine the said witnesses.

2. Heard *Sri P. Narasimhulu*, learned counsel for the petitioners, learned Assistant Public Prosecutor appearing for the 1st respondent/State, and *Sri S.Krishna Reddy*, learned counsel for the 2nd respondent/complainant.

3. The facts, in brief, are that the petitioners are charged for the offences punishable under Sections 498-A, 307 r/w 34 IPC and Sections 3 & 4 of Dowry Prohibition Act in S.C.No.346 of 2013 on the file the Court of learned IV Additional District & Sessions Judge-cum-Special Judge for trial of Offences against Woman, Ananthapuramu. The prosecution examined PWs 1 to 11 to prove its case. The case stood posted to 10.03.2022 for arguments. At this stage, the petitioners filed the present petition under Section 311 CrPC to recall PWs 1 to 3, 6 & 10 and to permit the petitioners

to further cross examine them on the ground that due to oversight, PWs 1 to 3, 6 & 10 were not cross examined on certain aspects and also with regard to prior litigation between the parties. The prosecution opposed the petition by filing counter stating that the witnesses were cross-examined at length and that the present petition is silent with regard to the alleged material aspects and also the omissions and contradictions that are going to be elicited by recalling them.

4. On contest, the trial Court dismissed the petition holding that the witnesses were already examined at length long back and further, in view of the decision in **K. Vittala Rao and others v. State of A.P, rep. by the Public Prosecutor, High Court at Hyderabad**¹ relied on by the prosecution, if the petition is allowed, it is nothing but re-trial of the case which is nothing but abuse of process of law and that there are no reasons to allow the petition.

5. Aggrieved by the same, the present revision case has been preferred mainly contending that there was a prior litigation between the parties for which the present petition was filed to recall PWs 1 to 3, 6 and 10 for further cross-examination.

6. Learned counsel for the petitioners submitted that the petition under Section 311 CrPC can be filed at any stage and that since

¹ 2017 (2) ALT (Crl.) 261 AP

material questions are yet to be put to the witness regarding the past transactions, it is just and necessary to allow the petition.

7. Learned counsel for the 2nd respondent/complainant and the learned Assistant Public Prosecutor representing the 1st respondent/State vehemently opposed the petition stating that the witnesses have been thoroughly cross-examined at length including on the subject of the past transactions, and therefore, there is no merit in the case and that the attempt of the petitioners in filing the petition is only to delay the proceedings. It is further submitted that except mentioning vaguely that further cross-examination is required on material aspects relating to prior litigation, no details of such litigation is mentioned in the petition and moreover, the petitioners seek to further cross-examine not just one witness but PWs 1 to 3, 6 & 10, that too, at the fag-end of the matter without any justification.

8. Perused the record including the evidence of the witnesses and it is found that they were exhaustively cross-examined. Moreover, the petitioners failed to show what is left to be put in the cross examination of these witnesses. Though Section 311 CrPC permits witnesses to be recalled at any stage, when there is no justification shown, for mere asking sake, the petitioners cannot be

granted the relief. Therefore, the trial Court has rightly dismissed the petition. Thus, there is no merit in the revision.

9. Accordingly, the Criminal Revision Case is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

03.03.2023
RAR

B.S.BHANUMATHI, J