THE HON'BLE SRI JUSTICE K.SURESH REDDY

CRIMINAL REVISION CASE No. 654 OF 2023

JUDGMENT:

Questioning the order dated 04-04-2023 in Criminal M.P.No. 42 of 2023 in S.C.No. 177 of 2019 passed by learned Sessions Judge, Mahila Court, Vijayawada (for short, 'the Court below'), whereby the miscellaneous petition filed by the petitioners-accused Nos. 1 and 2 under Section 227 Cr.P.C. seeking to discharge them from the abovementioned sessions case is dismissed, the present revision is filed before this Court.

2. Heard Sri Mohammed Shafi, learned counsel appearing for the petitioners-accused Nos. 1 and 2, and learned Special Assistant Public Prosecutor appearing for the respondent-State.

3. The petitioners are accused in crime No. 208 of 2012 of Nunna Police Station, Vijayawada City. After completion of investigation, the police filed charge sheet against the petitioners for the offences punishable under Sections 366, 342, 506 and 109 IPC and Section 3 (x) (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, '1989 Act'), before the committal Court. After committal of case to

Sessions Division, the case was numbered as S.C.No. 57 of 2015 on the file of the Court of learned Special Judge for Trial of Cases under SCs and STs (POA) Act – cum – Additional Metropolitan Sessions Judge, Vijayawada. While so, petitioner No. 1-accused No. 1 filed Criminal M.P.No. 204 of 2019 in S.C.No. 57 of 2015 seeking to discharge him for the offence punishable under Section 3 (x) (xi) of 1989 Act. After hearing both sides, by order dated 25-07-2019, learned Special Judge allowed the miscellaneous petition and discharged petitioner No. 1-accused No. 1 for the offence punishable under Section 3 (x) (xi) of 1989 Act. Thereafter, the sessions case was transmitted to the Court below and the same was renumbered as S.C.No. 177 of 2019. During pendency of the sessions case, once again the petitioners-accused Nos. 1 and 2 filed discharge petition seeking to discharge them from the sessions case. After hearing both sides, the Court below dismissed the discharge petition filed by the petitioners-accused Nos. 1 and 2 on merits by the order under revision.

4. This Court perused the entire material available on record. It is settled legal position that after framing charges, the trial Court

has got no power to discharge the accused. In the case on hand, charges were framed on 21-11-2022 whereas the petitioners-accused Nos. 1 and 2 filed discharge petition on 23-01-2023. Therefore, in view of the settled legal position, the discharge petition filed by the petitioners-accused Nos. 1 and 2 is not maintainable and the Court below ought to have dismissed the discharge petition as infructuous instead of dismissing the same on merits. Further, as seen from the charges framed by the Court below, the last charge framed against the petitioners-accused Nos. 1 and 2 is for the offence punishable under Section 3 (x) (xi) of 1989 Act. It is therefore apparent that the Court below while framing charges did not take into consideration the order dated 25-07-2019 in Criminal M.P.No. 204 of 2019 passed by learned Special Judge, whereby accused No. 1 was discharged for the offence punishable under Section 3 (x) (xi) of 1989 Act.

5. In the light of the above, the Court below is directed to reconsider the last charge framed on 21-11-2022 keeping in view the order dated 25-07-2019 in Criminal M.P.No. 204 of 2019 passed by learned Special Judge.

6. With the above direction, the criminal revision case is dismissed. Pending miscellaneous applications, if any, shall stand dismissed in consequence.

Date: 12-09-2023,
JSK

JUSTICE K.SURESH REDDY

THE HON'BLE SRI JUSTICE K.SURESH REDDY

CRIMINAL REVISION CASE No. 654 OF 2023

DATE: 12TH SEPTEMBER, 2023

JSK