

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

HON'BLE SRI JUSTICE K. SURESH REDDY

CRIMINAL REVISION CASE No.691 of 2023

ORAL ORDER:

Questioning the order of taking cognizance, dated 31.05.2023, passed by the learned I Additional Judicial First Class Magistrate, Markapur, Prakasam District, in Crime No.54 of 2023 of Markapur Town Police Station, pursuant to which the case was numbered as C.C.No.506 of 2023, the petitioner/accused filed the present criminal revision case.

2. Brief facts of the case are thus: On the basis of the complaint lodged by one Challa Bhavani, a case in Crime No.54 of 2023 was registered against the petitioner herein on the file of Markapur Town Police Station. The allegation levelled against the petitioner/accused is that while the defacto complainant was working as System Operator on contract basis in M.P.D.O. Office, Markapur, the petitioner, who is the husband of the member of Mandal Praja Parishad, used to send obscene messages to her cell phone and used to touch her without her permission and misbehave with her and also demanded her to have physical contact with him to get her application for job approved, and that unable to bear his harassment, she left the job. After conducting

investigation into the said crime, the Sub-Inspector of Police, Markapur Town Police Station, filed charge sheet against the petitioner/accused, stating that the investigation reveals *prima facie* case against the accused for the offence under Section 354-D I.P.C. Thereupon, the learned I Additional Judicial Magistrate of First Class, Markapur, took cognizance of the offence under Section 354-A(1)(i)(ii) and Section 354-D of I.P.C. and issued summons to the accused, by order dated 31.05.2023, which is impugned in the present revision case.

3. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the respondent-State.

4. The impugned order dated 31.05.2023 reads as under:

“This case is taken on file for the offence U/Sec. 354(A)(1)(i)(ii) and Section 354(D) IPC.

Issue summons to accused by 29.08.2023.”

5. It is to be noted that for taking cognizance of the offence, the Court has to apply its mind to the contents of charge sheet and the material on which the prosecution proposes to prosecute the accused, so as to consider whether a *prima facie* case is made out to proceed against the accused. If, upon such application of mind and consideration, the Court is of the opinion that a *prima facie* case is made out to proceed against the accused, it can take cognizance of the

offence. Such application of mind on the part of the Court should reflect from the order. In the case on hand, the learned Magistrate did not assign any reasons in the order of taking cognizance, to indicate such application of mind on his part. In view of the same, the impugned order is liable to be set aside.

6. Accordingly, the order under revision is set aside and the matter is remanded back to the learned Magistrate to undertake the required consideration in the matter of taking cognizance and pass appropriate reasoned orders in accordance with law.

7. This criminal revision case is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed.

Dt: 14.08.2023

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K. SURESH REDDY, J

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