

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

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**Criminal Revision Case No.764 OF 2023**

Between:

Mohd. Khan and others

... Petitioners

And

The State of Telangana

Through Public Prosecutor and another. ..Respondents/Complainant

DATE OF JUDGMENT PRONOUNCED :22.01.2024

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

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|--|--------|
| 1 Whether Reporters of Local newspapers may be allowed to see the Judgments?   | Yes/No |
| 2 Whether the copies of judgment may be marked to Law Reporters/Journals       | Yes/No |
| 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

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*K.SURENDER, J*

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.R.C. No.764 of 2023**

% Dated 22.01.2024

# Mohd. Khan and others

... Petitioners

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\$ The State of Telangana

through Public Prosecutor and another

Respondents/Complainants

**! Counsel for the Petitioners:** Sri Khaja Moinuddin

**^ Counsel for the Respondents:** Addl. Public Prosecutor for R1

**>HEAD NOTE:**

? Cases referred

**THE HONOURABLE SRI JUSTICE K.SURENDER**  
**CRIMINAL REVISION CASE No.764 of 2023**

**ORDER:**

1. The revision petitioners are A3 to A12 charged for the offences under Sections 498-A, 409, 506 of IPC and Sections 4 and 6 of Dowry Prohibition Act.

2. The defacto complainant lodged complaint alleging that her marriage with A1 was performed on 08.03.2021 in accordance with the Muslim rights and customs. At the time of marriage, Rs.5.00 lakhs cash, ten tulas of gold were given as dowry and huge amounts were spent on marriage and dinner. After joining A1, the defacto complainant was ill-treated. Accused demanded Rs.5.00 lakhs as additional dowry and also Rado watch. Since the additional dowry was not given, harassment increased and mother-in-law forced her to eat stale food. She was accommodated in a room which was filthy and not fit for human habitation.

3. Further, the case of the *defacto* complainant is that she became pregnant and A1 asked her to abort for the reason of suspecting that she was pregnant having relation with someone else. The said demand for additional dowry was informed to the mother. Mother arranged for Rado watch. However, accused started

demanding Rs.5.00 lakhs. Unable to bear the harassment and also for the said reason of incurring Rs.16.00 lakhs towards dowry and expenditure in the marriage, complaint was filed. After investigation, charge sheet was filed against these petitioners, who are arrayed as A3 to A12 and A1 to A3.

4. These petitioners filed petition under Section 239 of Cr.P.C before trial Court seeking discharge from the case on the ground that nothing is alleged specifically any of these petitioners.

5. Learned XV Additional Chief Metropolitan Magistrate, Hyderabad passed order dated 08.09.2023 in CrI.M.P.No.2632 of 2023 in C.C.No.2489 of 2022 refusing to discharge the petitioners. Reasoning given by the learned Magistrate is that the statements of the prosecution witnesses *prima facie* make out a case against these petitioners. Further, since the case is at initial stage without conducting full-fledged trial, the Court cannot discharge the petitioners. Moreover, it is not necessary for the Court to look into the facts and circumstances of the case only for the reason of the accused belonging to the respectable families and some of them are ladies who were living separately.

6. Having gone through the complaint and the statements of the witnesses recorded by the Investigating Officer, none of the witnesses have stated anything against these petitioners leave alone naming them. Not a single incident or instance is narrated showing involvement of any of these petitioners. It is not known as to what formed the basis for the police to include the names of these petitioners as accused, when there are no allegations made against them by any of the witnesses who are examined during investigation.

7. Learned Magistrate erred in finding that it is not necessary for the Court to look into the facts and circumstances of the case. The very intention of the legislature in introducing Section 239 and 227 of Cr.P.C for discharging the accused is to see to that prosecution shall not continue against persons against whom there is no *prima facie* case that is made out. Leave alone a *prima facie* case, the petitioners are not even named anywhere either in the complaint or in the statements made by the witnesses. Learned Magistrate ought to have invoked power under Section 239 of Cr.P.C to discharge the petitioners. Such frivolous prosecution has to be nipped at the bid. The trial Courts should unhesitatingly discharge the accused, when there is no case and shall not subject accused

to the rigmarole of a criminal trial, only for the reason of being named in the charge sheet.

8. Since there are no allegations against any of these petitioners much less any specific allegation, the continuance of criminal proceedings against petitioners is nothing but abuse of process of the Court. Trial Courts time is precious and there is a long pendency of cases. Trial Courts cannot waste time on such cases, where the chance of finding accused guilty is almost nil. When there is no evidence on record, which even creates an element of suspicion of guilt, the accused shall be discharged without waiting for the trial to conclude.

9. Accordingly, the Criminal Revision Case stands allowed discharging the petitioners/A3 to A12 in C.C.No.2489 of 2022. Consequently, the impugned order dated 08.09.2023 in CrI.M.P.No.2632 of 2023 in C.C.No.2489 of 2022 is set aside. Miscellaneous applications, if any, shall stand closed.

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**K.SURENDER, J**

Date: 22.01.2024

Note: LR copy to be marked.

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**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL REVISION CASE No.764 OF 2023**

**Dt. 22.01.2024**

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