

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.820 of 2014

1. Dhilsad
2. Sadiq Hussain ... Petitioners

Versus

1. State rep.by
Inspector of Police
Udumalpet Police Station
Tiruppur District.
2. V.Sumathi ... Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C against the order dated 24.07.2014 passed by the learned Judicial Magistrate, No.I, Udumalpet in CMP No.8045 of 2013 in C.C.No.266 of 2013.

For Petitioner : Mr.P.Kalimuthu
For Respondents : Mr.T.Arul
Government Advocate
(Criminal side) for R1

ORDER

When the matter was taken up for hearing on 10.04.2015 and on 22.04.2015, there was no representation on behalf of the petitioner. Hence, this Court appointed Mr.K.Thilageswaran, learned counsel as Amicus Curiae to conduct the case on behalf of the petitioners. However, when the matter is taken up today, both the learned counsel for the petitioners as well as the Amicus Curiae appointed by this Court appeared and argued the matter.

2. The petitioner has come forward with this Criminal Revision case as against the order dated 24.07.2014 passed by the learned Judicial Magistrate, No.I, Udumalpet in CMP No.8045 of 2013 in C.C.No.266 of 2013.

3. The case of the prosecution is that the petitioners herein, who have been arrayed as A1 and A3, lent money to the defacto complainant/R2 herein and had collected exorbitant interest from her. Hence, she preferred a complaint in C.C.No.266 of 2013 on the file of the learned Judicial Magistrate No.1, Udumalpet as against the petitioners for the alleged offences under Section 4 of the Tamil Nadu Prohibition Charging Exorbitant Interest Act, 2003 r/w, 355, 323, 506(i) IPC. Whereas the petitioners herein/accused 1 and 3,

preferred a petition under Section 245 of the Criminal Procedure Code before the Court below for discharging them from the alleged offence on the ground that before charging them with the aforesaid offence, no proper enquiry was conducted and that they have also not involved in any other offence of similar nature. However, the said petition was dismissed. Hence, the present criminal revision case.

4. Learned counsel appearing for the petitioners would submit that the Court below by taking into account the evidence adduced by the defacto complainant as well as by P.Ws.2 to 5 during the preliminary enquiry under Section 161(3) Cr.P.C., had dismissed the petition filed by the petitioners for discharging them from the alleged offence. He would further submit that the Court below has held that there is a prima facie evidence for culmination of the offence and that the defacto complainant need not prove through proper medical evidence that she had suffered injuries in the incident. Accordingly, he would pray for setting aside the order passed by the Court below.

5. Learned Government Advocate (Crl.side) appearing on behalf of the first respondent submitted that this is not a stage for discharge and it can be done only after conducting a trial. Accordingly, he would pray for the dismissal of the criminal revision case.

6. Heard both sides and by consent the main criminal revision case is taken up for final disposal.

7. On a perusal of the order, it is seen that the Court below after taking into consideration the preliminary evidence adduced by the defacto complainant and P.Ws.2 to 5 and also the seizure of several signed blank pro-notes as well as cheques during the search conducted at A3's residence, had dismissed the petition filed by the petitioners for discharge under Section 245 of the Cr.P.C by holding that the stage for discharge is not ripe. In fact, this Court as well as the Hon'ble Supreme Court in several cases held that when there is a prima facie evidence, the accused persons should definitely have to undergo the trial and during trial if it is found that there is no direct evidence connecting the parties to the alleged offence, then only the question of discharging them would arise.

8. In the case on hand, from the evidence adduced by the defacto complainant as well as P.Ws.2 to 5 and also from the recovery of huge number of signed pro-notes as well as cheques from the residence of A3, the Court below arrived at a conclusion that there is a prima facie evidence for the culmination of the offence and accordingly dismissed the petition filed by the petitioners for discharging them from the alleged offence.

9. In view of the same, I do not find any reason to interfere with the reasoned order passed by the Court below. Accordingly, this Criminal Revision Case is dismissed.

10. The services rendered by Mr.K.Thilageswaran, Amicus Curiae is appreciated and same is placed on record.

Sd/-
Assistant Registrar

True Copy

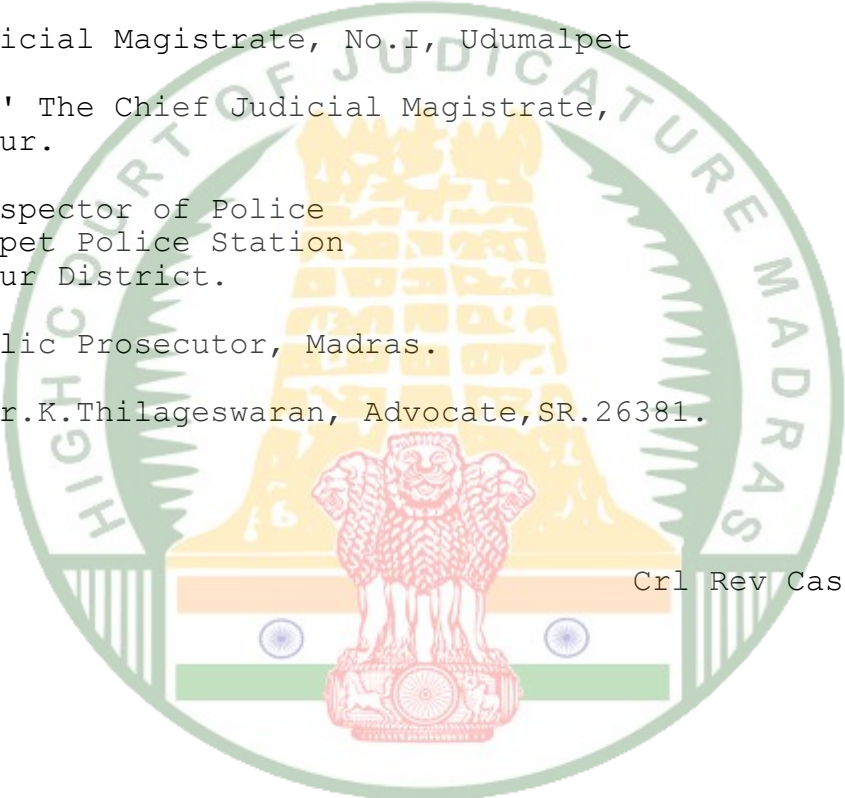
Sub Assistant Registrar

To

1. The Judicial Magistrate, No.I, Udumalpet
 2. do thro' The Chief Judicial Magistrate,
Tiruppur.
 3. The Inspector of Police
Udumalpet Police Station
Tiruppur District.
 4. The Public Prosecutor, Madras.
- +1 cc to Mr.K.Thilageswaran, Advocate, SR.26381.

Svi(co)
krd 12/6

Crl Rev Case No.820 of 2014



सत्यमेव जयते

WEB COPY