

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1025 of 2008

K. Kannan .. Petitioner/Petitioner

Versus

1. State (Inspector of Police)
W-25, All Women Police Station
T. Nagar, Chennai - 600 017

2. Rajinikanth .. Respondent/Respondents

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code against the order dated 27.01.2008 passed in Crl.M.P. No. 172 of 2007 in Crime No. 19 of 2006 on the file of XVII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr. J.J. Rajkumar Robert

For Respondents : Mr. T. Arul
Government Advocate (Crl.side) for R1

Mrs. R. Maheswari for R2

ORDER

The father of the defacto complainant is the petitioner in this Criminal Revision Case. At the instance of the defacto complainant, who is the wife of the second respondent herein, the criminal prosecution came to be launched against the second respondent herein by registering a case in Crime No. 19 of 2006 on the file of the first respondent for the offence punishable under Section 498-A of IPC. In other words, the second respondent is the son-in-law of the revision petitioner herein.

2. It is seen from the records that the defacto complainant has given a complaint on 16.06.2006 to the first respondent police alleging that she was subjected to harassment by her husband/second respondent herein demanding dowry. However, the first respondent police did not register a case on the basis of the complaint dated 16.06.2006. Therefore, the defacto complainant filed Crl.OP No. 2429 of 2006 before this Court seeking for a direction to the respondents therein to register a case on the basis of her complaint dated 16.06.2006. Pursuant to a direction issued by this Court, the case in Crime No. 19 of 2006 came to be registered against the second respondent herein for the offences punishable under Section 498-A of IPC read with Section 4 of the Dowry Prohibition Act on 07.09.2006. According to the petitioner, the first respondent,

without conducting proper investigation has closed the complaint as a mistake of fact. In the meantime, on 22.10.2006, the defacto complainant died and therefore, the revision petitioner has filed a protest petition in CrI.MP No. 172 of 2007 before the learned XVII Metropolitan Magistrate, Saidapet, Chennai praying to issue appropriate direction to the first respondent/police to conduct appropriate enquiry. It is the specific contention of the petitioner that his daughter died due to harassment and mental torture meted out to her at the hands of the second respondent/husband by demanding dowry. The learned XVII Metropolitan Magistrate, Saidapet, Chennai dismissed the Protest Petition on 22.01.2008 which led to the filing of the present Criminal Revision Case.

3. The learned counsel appearing for the petitioner would contend that the first respondent/police did not conduct proper investigation in to the complaint given by his daughter. During the course of such investigation, the first respondent/police ignored vital material evidence to conclude that the defacto complainant died only due to harassment and mental agony caused to her by the second respondent/ husband. According to the petitioner, the defacto complainant stayed along with her husband at United States of America. During such stay, the defacto complainant had medical complications for which she was admitted in a hospital at United States of America. After discharge, the second respondent sent the defacto complainant to India without even medical support on-board the flight with an intention that she should die on-board of the aircraft. However, the defacto complainant reached India and she was admitted in a hospital. The first respondent/police, without conducting enquiry in to the above aspects has simply closed the complaint and filed the closure report before the learned XVII Judicial Magistrate, Saidapet. The learned Judicial Magistrate also failed to exercise the powers conferred under the Criminal Procedure Code to order for appropriate investigation into the case. Therefore, the learned counsel for the petitioner prayed for allowing this Criminal Revision Case.

4. The learned Government Advocate appearing for the first respondent would contend that investigation officer had taken into account all the material evidence to conclude that there was no matrimonial cruelty inflicted on the defacto complainant. The report of the investigation officer was also scrutinised by the learned Judicial Magistrate and accepted the report to the effect that the allegations made against the second respondent are not substantiated by any material evidence. Therefore, the learned Government Advocate prayed for dismissal of the Criminal Revision Case.

5. The learned counsel appearing for the second respondent would contend that the defacto complainant was not subjected to any matrimonial cruelty or there was any demand of dowry made by the second respondent, as alleged. In fact, the defacto complainant suffered from Crslic Fibrosis with severe bronchiectasis. The medical records produced before the investigation officer would reveal the ailment suffered by the defacto complainant. The discharge summary issued by Sequoia Hospital, Redwood City,

California, United States of America would reveal that the defacto complainant was admitted for a considerable length of time in the hospital and as per the advise of the Doctors, she was sent back to India. It is further stated by the counsel for second respondent that it is the second respondent who had spent several lakhs of rupees for hospitalisation of the defacto complainant. Thus, it could be evident that the defacto complainant died only due to the ailment suffered by her and not due to any demand for dowry as alleged by the petitioner. Further, the second respondent has filed a Petition for Divorce before the Family Court, Chennai on the ground that the defacto complainant had suppressed the ailment suffered by her prior to marriage. Therefore also, she prayed for dismissal of this Criminal Revision Case.

5. I heard the learned counsel on either side and perused the materials placed on record. It is the specific case of the petitioner that her daughter died due to alleged matrimonial cruelty inflicted on her by the second respondent. To substantiate this, the petitioner has not produced any material evidence either before the investigation officer or before the learned XVII Judicial Magistrate, Saidapet, Chennai. The petitioner has not disputed the fact that her daughter was admitted in a hospital in United State of America for her ailment during which time, she was taken care of by the second respondent. The learned Judicial Magistrate had considered the discharge summary issued to the defacto complainant by the hospital management at United States of America and concluded that the death of the defacto complainant has no nexus to the alleged matrimonial cruelty inflicted on her by the second respondent. Further, it is seen that the second respondent has filed a Petition seeking Divorce before the Family Court, Chennai specifically contending that the defacto complainant as well as the petitioner have suppressed the fact that the defacto complainant had some medical complications before the marriage. Furthermore, it is seen from the records that the investigation officer had enquired 13 witnesses, including the neighbours and persons acquainted with the family of the petitioner and none of them have stated that the defacto complainant was subjected to any matrimonial cruelty by the second respondent/husband. Therefore, there is no nexus to the alleged cruelty inflicted on the defacto complainant at the hands of the second respondent and her death. Merely because the complaint given by the defacto complainant against the second respondent for the alleged offence punishable under Section 498-A of IPC was pending during the time of death of the defacto complainant, it cannot be said that the defacto complainant died due to the matrimonial cruelty inflicted on her. The trial Court in the impugned order found that the defacto complainant died on 22.10.2006 due to advance stage of Chronic Fibrosis with severe bronchiectasis and it was supported by documentary evidence produced by the second respondent. The trial court also concluded that due to such illness, the defacto complainant suffered cardiac respiratory arrest while she was undergoing treatment at Surya Hospital, Chennai and it resulted in her death. While so, this Court does not find any reason to interfere with the well considered order passed by the court below.

6. In the result, the Criminal Revision Case is dismissed.

Sd/-
Deputy Registrar

True Copy

Sub Assistant Registrar

To

1.The XVII Metropolitan Magistrate
Saidapet, Chennai.

2.do thro The Chief Metropolitan Magistrate,
Saidapet, Chennai.

3.The Inspector of Police,
W25 All Women Police Station,
T.Nagar, Chennai.

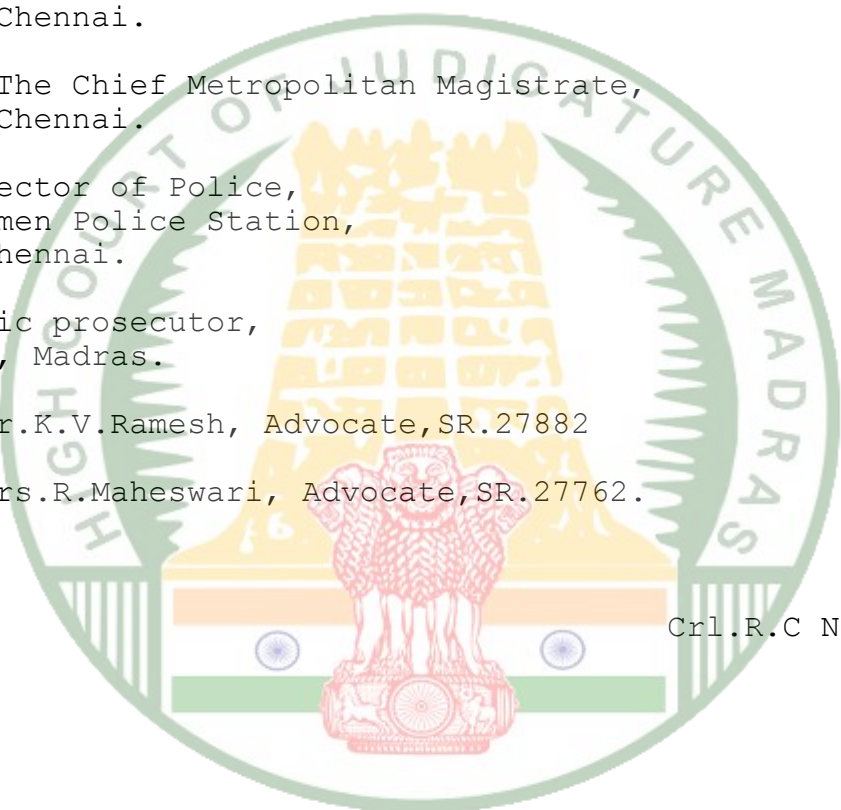
4.The Public prosecutor,
High Court, Madras.

+1 cc to Mr.K.V.Ramesh, Advocate,SR.27882

+1 cc to Mrs.R.Maheswari, Advocate,SR.27762.

Ug(co)
krd 8/7

Crl.R.C No. 1025 of 2008

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red lion capital on a base. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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