

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Cr1.R.C.No.159 of 2010

Arunakumari

... Petitioner/Complainant

vs

1.Geetha  
2.P.Santhakumari  
3.Sai Chandra Sekar Singh  
4.P.Balaji Lakshman Singh  
5.P.Raghuram Singh  
6.Rajeswari  
7.Neelima  
8.Tulsi  
9.Dr.Suresh

... Respondents/Accused No.1 to 9

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. praying to call for records in CC.NO.6063 of 2003 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai, and set aside the order of discharge dated 29.5.2009.

For Petitioner : Mr.C.Chinnavyran

For Respondents: Mr.M.Chandrasekaran [R1 to R8]

O R D E R

This revision arises against the order of learned Chief Metropolitan Magistrate, Egmore, Chennai, passed in C.C.No.6063 of 2003 on 29.05.2009.

2. The prosecution case is that A5 and petitioner were husband and wife. A5 had forced petitioner to consent for divorce, sign divorce papers and got divorce. Thereafter, the petitioner filed O.S.No.6864 of 1997 before the Court below to set aside the decree of divorce. Pursuant thereto, an agreement was entered into between petitioner and A5, under which A5 undertook to pay a sum of Rs.8 lakhs towards permanent alimony. He paid Rs.5 lakhs and promised to pay the balance sum of Rs.3 lakhs within nine months. Upon the failure of A5 to pay the balance, petitioner preferred a private complaint before learned II Metropolitan Magistrate, Egmore. A case was registered in X Crime No.1693 of 1998 in keeping with the direction of the Magistrate and upon completion of investigation, a final report was filed informing the case to be one of 'mistake of fact'.

Against closure of the case, the petitioner moved a protest petition before learned Additional Chief Metropolitan Magistrate, Egmore, who after recording the sworn statement of the petitioner, took the case on file in C.C.No.6063 of 2003 for offences u/s.406, 420, 368 r/w 109 IPC. Accused moved Crl.O.P.No.22586 of 2003 before this Court seeking quash and the same was dismissed. There after, the case was transferred to the file of Mahila Court, Chennai as per the order of learned Principal Judge, City Civil Court, passed in Tr.O.P.No.7098 of 2003. There against, the accused preferred Crl.R.C.No.115 of 2004 before this Court and the Division Bench of this Court transferred the case from the Mahila Court, Chennai to the Additional Chief Metropolitan Magistrate, Egmore, Chennai. The case, suddenly was transferred to the file of the Chief Metropolitan Magistrate, Egmore, Chennai. After completion of examination of witnesses and marking of documents, the petitioner requested the Court below to transfer the case to Mahila Court. However, the Court below, without acceding to the request of the petitioner, discharged the accused. Hence, this revision.

3. Heard learned counsel for petitioner and learned counsel for respondents.

4. A perusal of the order under challenge reveals that the Court below has discharged the accused primarily on the reasoning that a consent decree of divorce was granted by the competent Court, that the same is still in force and an agreement has also been entered into between the parties towards permanent alimony and a portion of the same has also been paid. Further, Ex.P2 - plaint challenging the consent decree of divorce and Ex.P4 - notice do not contain allegations regards wrongful confinement or abduction. In such circumstances, it found that there is no prima facie material available against the accused for framing of charges and the complaint has been preferred by the petitioner only to harass the fifth accused. That apart, there are contradictions between the complaint, oral evidence and documents and they do not make out a case for framing of charges against the accused for the alleged offences u/s.406, 420, 368 r/w 109 IPC. For the above and for some other reasons, the Court below has discharged the accused. This Court finds no error in the order under challenge.

The Criminal Revision is dismissed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gm

To

The Chief Metropolitan Magistrate,  
Egmore, Chennai.

Cr1.R.C.No.159 of 2010

TM(CO)  
EU 18.7.16



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