

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.9.2015

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

CRL.R.C.NO.1348 of 2013

R.Tamilmani

.. Petitioner/Petitioner

Versus

1. Jyothimani
2. Mahalingam
3. Thangavel
4. J.Jeyasudha
5. Manoharan

.. Respondents/Accused

Criminal Revision Case filed under Section 397 read with Section 401 of Cr.P.C, praying to set aside the order dated 24.9.2013 made in Crl.MP.No.3364 of 2012 on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi, Erode District by allowing this Criminal Revision Petition.

For Petitioner : Mr. P.Kannankumar

For R1 to R3 : Mr. D.Gopal

For R4 and R5 : Mr.Manokaran

ORDER

The Revision is filed by the petitioner questioning the correctness of the order dated 24.09.2013 passed by the Court below, by which the private complaint filed by the petitioner against the respondents was dismissed.

2. The petitioner herein is the husband and the first respondent is the wife. The marriage between the petitioner and the first respondent was solemnised in the year 2005. Due to difference of opinion, the first respondent-wife left the matrimonial home. According to the petitioner, the first respondent wife has filed false criminal cases against him and his mother in order to harass them. According to the petitioner, since the respondents threatened him in dire consequences, he has given complaint but no action was taken by the police. But the complaint given by the first respondent alone was taken on file by the police station and the petitioner was ill treated and harassed by the police. The complaint given to the higher authority by the petitioner was also not taken into consideration. Hence, the present private complaint has been filed by the petitioner but the same was dismissed. Therefore, the petitioner has come forward with the above revision.

3. The learned counsel for the petitioner submitted that the Court below failed to appreciate the deposition of the petitioner and other witnesses. The learned counsel further submitted that the Court below has not taken into consideration the medical evidence and the accident register produced by the petitioner before passing the order. The learned counsel also submitted that it is a case and counter and the same has not been taken note of by the Court below. Therefore, the learned counsel submitted that the order of the court below is unsustainable.

4. The learned counsel for the respondents 1 to 3 would submit that already the petitioner was convicted for the offence under Section 498(A) and 506(ii) IPC in C.C.No.84 of 2008 by judgment dated 04.10.2010. After the said conviction, the petitioner has filed the present false complaint and hence, the Court below has rightly dismissed the complaint. The learned counsel would further contend that pending divorce petition and without disclosing the conviction dated 04.10.2010 made in C.C.No.84 of 2008 for the offence under Section 498(A) and 506(ii) IPC, false complaint has been made. The learned counsel would also contend that the petitioner has not produced any materials to show that he sustained injuries as alleged in the complaint. Therefore, the Court below has rightly dismissed the petition.

5. The learned counsel for the respondents 4 and 5 would contend that the complaint against the respondents 4 and 5 is not maintainable as there is no sanction as per Section 197 Cr.PC.

6. Heard the learned counsel for the petitioner, learned counsel for the respondents 1 to 3 and the learned counsel for the respondents 4 and 5 and perused the materials placed on record.

7. It appears that there was a family dispute between the petitioner-husband and the first respondent-wife and HMOP is also pending in this regard. Previously, the first respondent-wife has given complaint against the petitioner herein under Domestic Violence Act and by judgment dated 04.10.2010, the petitioner was convicted for the offence under Section 498(A) and 506(ii) IPC in C.C.No.84 of 2008. Thereafter, the present petition has been filed by the petitioner stating that he has been harassed by the respondents.

8. As rightly pointed out by the Court below, the injuries as stated by the petitioner does not correlate with the injuries stated in the doctor's certificate. Further, though the petitioner has stated that the complaint has been given to the higher police officials and no action was taken by them, in the present petition, the petitioner has not stated that when the said complaint was given to the police officers. The petitioner has also not produced any evidence to substantiate the same. Therefore, I am of the view that in order to escape from the previous criminal proceedings, the present petition has been filed and there is no reason at all.

9. Above all, without obtaining sanction under Section 197 Cr.PC. the present petition has been filed and hence, the same is not maintainable. Therefore, I do not find any reason to interfere with

the reasoned order passed by the court below. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Asst.Registrar (LA)

/true copy/

Sub Asst. Registrar

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To

1. The District Munsif cum Judicial Magistrate, Kodumudi
Erode District.

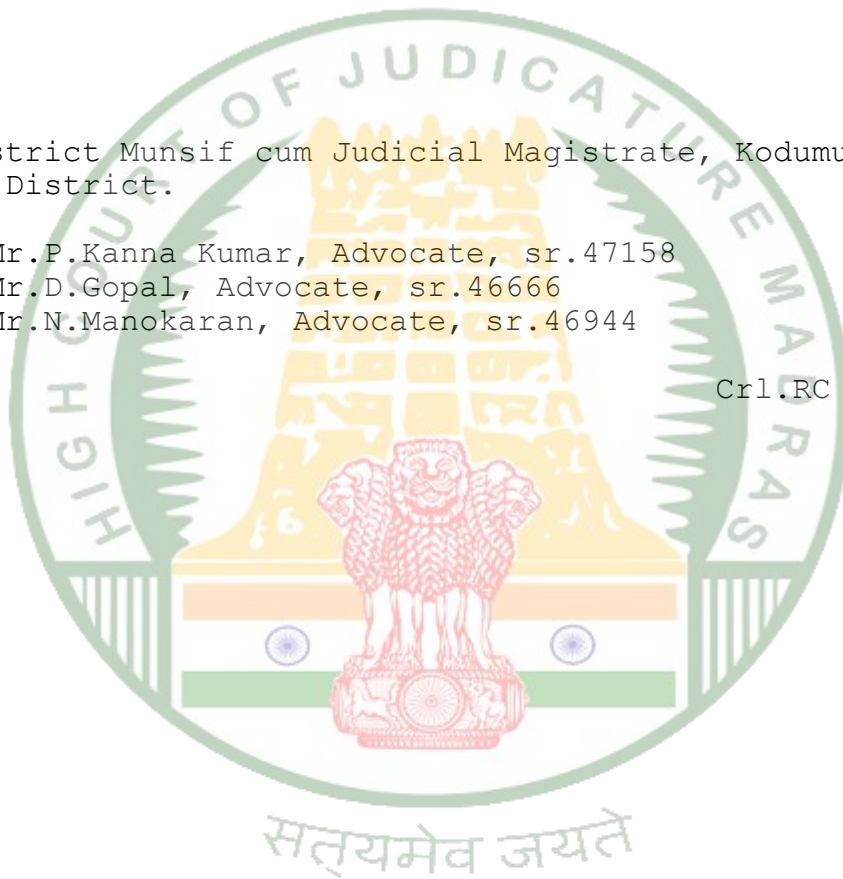
+1 cc to Mr.P.Kanna Kumar, Advocate, sr.47158

+1 cc to Mr.D.Gopal, Advocate, sr.46666

+1 cc to Mr.N.Manokaran, Advocate, sr.46944

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