



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

CRL.RC.(MD)Nos.538 and 539 of 2014

and

M.P.Nos.1,1,2 and 2 of 2014

K.Veerakumar : Petitioner/Accused No.2
in both the Revision case
Vs.

1.State Rep by
The Inspector of Police,
Thanjavur Medical College Police Station,
Thanjavur, Thanjavur District,
Crime No.435 of 2011. : 1st Respondent/Complainant
in both the Crl.RC

2.J.Periyakaruppan : 2nd Respondent/Defacto Complainant
in CRL.RC[MD].No.538 of 2014

PRAYER IN CRL.RC[MD].No.538 of 2014 : Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 15.09.2014 framing charges against the petitioner in Special S.C.No.244 of 2013 on the file of the learned Sessions Judge/Mahalir Neethimandram [Fast Mahila Court], Thanjavur, Thanjavur District.

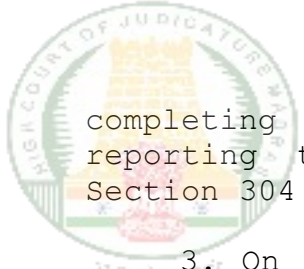
PRAYER in CRL.RC[MD].No.539 of 2014 : Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the order dated 01.07.2014 passed in Cr.M.P.No.92 of 2014 in S.C.No.244 of 2013, on the file of the learned Sessions Judge/Mahalir Neethimandram [Fast Mahila Court], Thanjavur.

For Petitioner : Mr.A.Thiruvadikumar
For Respondent No.1 : Mr.P.Kannithevan
Government Advocate [Criminal Side]
For Respondent No.2 : Mr.D.Senthil

COMMON ORDER

Since these two Criminal Revision Cases arise out of the same proceedings between the same parties, the revisions were heard together and they are disposed of by means of this Common Order.

2. The petitioner in both the revisions, by name, Mr.K.Veerakumar, is the second accused in S.C.No.244 of 2013, on the file of the learned Sessions Judge/Mahalir Neethimandram [Fast Mahila Court], Thanjavur. The first accused, by name, Mr.K.Kumar, is his brother. The second respondent herein is the de facto complainant. The first respondent registered the said case in Crime No.435 of 2011, under Section 174 of the Code of Criminal Procedure, which relates to the death of the daughter of the second respondent and the wife of the first accused - Mr.K.Kumar. On



completing the investigation, the first respondent laid final report reporting that the accused have committed offence punishable under Section 304(B) of the Indian Penal Code.

3. On appearing before the Lower Court, the petitioner/accused No.2 filed Cr.M.P.No.92 of 2014, seeking to discharge him from the said case. The learned Sessions Judge, by order dated 01.07.2014, dismissed the said petition. Challenging the same, he has filed CrI.RC.[MD].No.539 of 2014. After the dismissal of the said petition, the Lower Court has framed charges against the petitioner on 15.09.2014. Seeking to quash the same, he has come up with CrI.RC[MD].No.538 of 2014. That is how, these Revision are before this Court for disposal.

4. I have heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent, the learned counsel appearing for the second respondent and perused the records carefully.

5. The case of the prosecution, in brief, is as follows:-

The deceased - Mrs.Mythili, the daughter of the second respondent herein, was given in marriage to the first accused in the year 2006. At the time of marriage, jewels, cash and other properties were given as dowry by the second respondent and his family members. After the marriage, demanding more dowry, the first accused caused harassment to the deceased. He had also developed illicit intimacy with another woman. When this was brought to the notice of the deceased, she questioned the first accused. On one occasion, as a matter of fact, the deceased spoke to that woman over phone also about the same. She in turn had told the deceased that she had given money to the tune of Rs.2,00,000/- to the first accused and he had also received the same on the assurance that he would marry her. It is further alleged that the deceased was beaten upon by the first accused on few occasions. While so, on 07.12.2011, at about 03.00 PM, the deceased committed suicide by hanging. Alleging that there was suspicion in the death of the deceased, a complaint was lodged, upon which a case in Crime No.435 of 2011 was registered under Section 174 of the Code of Criminal Procedure. The Revenue Divisional Officer held an enquiry during which, the second respondent, his wife and others were examined. In the statement made by the second respondent and his wife, they have simply stated that the petitioner herein is also responsible for the death of the deceased. Except making such vague statement, at the fag end of their statements, they have not stated anything specifically about the role played by this petitioner, which would constitute an offence under Section 304(B) of the Indian Penal Code.

6. During the course of investigation, the second respondent and his wife were examined and in their statements, they did not even say anything about this petitioner. Two witnesses, by names, Mr.T.Elangovan and Mr.C.Thangavel have stated, in their statements, that the petitioner herein is also responsible for the death of the deceased. This vague statement has been made at the fag end of their statements, without making any specific allegation against the petitioner, alleging that he had any role to play, which resulted in the death of the deceased. Number of other witnesses have also been examined, who have made allegations only against the first accused and not against this petitioner. However, based on the materials collected during the investigation, the first



respondent laid final report alleging that the first accused and the petitioner herein have committed offence punishable under Section 304(B) of the Indian Penal Code.

7. As I have already mentioned, the petition filed by the petitioner before the Lower Court seeking to discharge him has been dismissed and charge has been framed. That is how, he is before this Court.

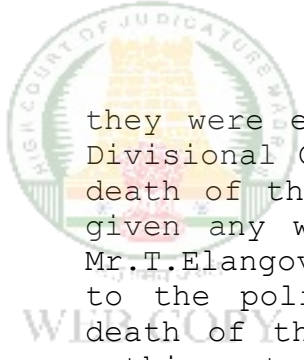
8. In these Criminal Revision Cases, the learned counsel for the petitioner would submit that absolutely, there is no material warranting to frame charge against the petitioner herein. He would further submit that mere vague statements made by the witnesses that the petitioner is responsible for the death of the deceased would not be sufficient to frame charge against the petitioner. In this regard, the learned counsel for the petitioner would rely on the Judgment of the Hon'ble Supreme Court in P.Vijayan, Vs.State of Kerala and another [2010 [2] SCC 398], wherein in Paragraph No.25, the Hon'ble Supreme Court has observed as follows:-

"25. As discussed earlier, Section 227 in the new code confers special power on the Judge to discharge an accused at the threshold if upon consideration of the records and documents. In other words, his consideration of the record and documents at that stage is for the limited purpose of ascertaining whether or not there is sufficient ground for proceeding against the accused. If the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228, if not, he will discharge the accused. This provision was introduced in the Code to avoid wastage of public time which did not disclose a prima facie case and to save the accused from avoidable harassment and expenditure."

9. The learned Government Advocate [Criminal Side] would, however, oppose these two revisions and submit that though it is true that the statements made by two witnesses before the police and two witnesses before the Revenue Divisional Officer are vague, that, by itself, may not be a ground to discharge the accused. He would further submit that during trial, further materials could be elicited from the witnesses in respect of the specific overt acts against this petitioner.

10. The learned counsel appearing for the second respondent would also oppose these two revisions with all vehemence. He has taken me through the materials available on record and the other witnesses. According to him, at this stage, it is too premature to decide as to whether petitioner herein had committed crime or not.

11. As has been consistently held by the Hon'ble Supreme Court, the bench mark, at this stage, is to see whether the allegations which are made out against the accused in the complaint, even if they are accepted on their face, without any doubt, could lead to the conviction of the accused, then, the charges cannot be quashed, as has been stated in P.Vijayan's case. If this test is applied to the facts of the present case, I find no materials against this petitioner. As rightly pointed out by the learned counsel for the petitioner, the second respondent and his wife have not stated anything at all, implicating the petitioner, when



they were examined by the police. But, they have stated to the Revenue Divisional Officer that the petitioner herein is also responsible for the death of the deceased. This is as vague as it could be, which cannot be given any weightage of at all. Similarly, two other witnesses, namely, Mr.T.Elangovan and Mr.C.Thangavel have also given such vague statements to the police that the petitioner herein is also responsible for the death of the deceased. It is also a very vague statement and there is nothing stated about the part played by this petitioner, satisfying the requirement under Section 304(B) of the Indian Penal Code.

12. In such view of the matter, I find no materials against this petitioner so as to impel him to undergo ordeal of trial. In my considered opinion, allowing the petitioner to undergo such ordeal of trial will be abuse of process of law. Therefore, I am inclined to quash the charges against the petitioner herein alone.

13. In the result, both the Criminal Revision Cases are allowed. The order, dated 15.09.2014, made in Special S.C.No.244 of 2013 and the order, dated 01.07.2014, made in Cr.M.P.No.92 of 2014 in S.C.No.244 of 2013, on the file of the learned Sessions Judge/Mahalir Neethimandram [Fast Mahila Court], Thanjavur, are quashed and the petitioner herein is discharged. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1.The Sessions Judge/Mahalir Neethimandram,
[Fast Mahila Court], Thanjavur.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police,
Thanjavur Medical College Police Station,
Thanjavur, Thanjavur District.

4.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.A.ThiruvadiKumar, Advocate in SR.No. 18085

+1cc to M/s.D.Senthil, Advocate in SR.No. 18103

Sm:22.04.2015:4P/7C

NB

COMMON ORDER MADE IN
CRL.RC. (MD) Nos.538 and 539 of 2014
DATED - 09.04.2015