



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.06.2015
CORAM:

THE HONOURABLE MR. JUSTICE S. NAGAMUTHU

WEB COPY

CRL.RC.(MD)No.503 of 2013

1.C.Manohar
2.P.Chellaswami
3.Saraswathi
4.Vijaya
5.Jeya
6.Girija
7.Geetha

: Petitioners/Accused
Vs.

1.State Rep by
The Inspector of Police,
All Women Police Station,
Kuzhithurai.

: 1st Respondent/Complainant

2.Jeyarajini : 2nd Respondent/Defacto complainant
2nd respondent impleaded as per order of the court
dated.10.09.2013 and made in MP(MD)2/2013 IN CRL.RC(MD)503/2013

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to allow the revision and set aside the order dated 20.05.2013 made in Cr.M.P.No.12744 of 2007 in C.C.No.132 of 2007, on the file of the Judicial Magistrate No.I, Kuzhithurai.

For Petitioner : Mr.M.Suri For T.Arul
For Respondent No.1 : Mr.P.Kannnithevan
Government Advocate [Criminal Side]
For Respondent No.2 : Mr.T.Murugan

O R D E R

The petitioners herein are the accused in C.C.No.132 of 2007, on the file of the learned Judicial Magistrate No.I, Kuzhithurai. The second respondent herein is the *de facto* complainant in the said case. The first respondent filed final report against these petitioners before the learned Judicial Magistrate No.I, Kuzhithurai, alleging that they had committed offences punishable under Sections 498(A), 406 and 420 of the Indian Penal Code and Sections 3, 4 and 5 of the Dowry Prohibition Act, 1961. The petitioners filed Cr.M.P.No.12744 of 2007, before the Lower Court seeking discharge. By order dated 20.05.2013, the learned Judicial Magistrate dismissed the said petition. Challenging the same, the petitioners have come up with the present Criminal Revision Case.

2. When this Criminal Revision Case came up for hearing, the learned counsel appearing for the petitioners submitted that he does not press the revision insofar as it relates to the petitioners 1 to 3 herein are concerned. He advanced his arguments only in respect of the petitioners 4 to 7. I have heard him in full. I have also heard the learned Government Advocate appearing for the first respondent, the learned counsel appearing for the second respondent and perused the records carefully.

3. Insofar as the petitioners 1 to 3 are concerned, since the learned

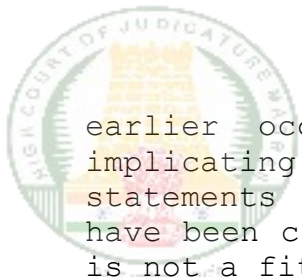
counsel for the petitioners submits that he does not press this revision in respect of the petitioners 1 to 3, this Criminal Revision Case is dismissed as not pressed in respect of the petitioners 1 to 3 herein.

4. The brief facts of the case would be as follows:-

The second respondent is the wife of the first petitioner herein. The marriage between them was celebrated on 20.01.2002. Before the marriage, according to the prosecution, on 10.09.2001, all these petitioners herein had gone to the house of the second respondent to negotiate for her marriage. During such negotiation, they demanded dowry articles and cash, including jewels. The parents of the second respondent gave these articles, cash and jewels as dowry on the same day. Again, on 25.10.2001, the first petitioner received a sum of Rs.2,00,000/- as dowry from the family members of the second respondent and on 20.12.2001, the first petitioner received a sum of Rs.1,00,000/- as dowry. On the day of marriage, few more articles and jewels were received as dowry. After the marriage, the first petitioner and the second respondent started living together as husband and wife in Dindivanam. After some time, there was a matrimonial dispute between them. The first petitioner demanded a sum of Rs.1,00,000/- from the second respondent under the guise of purchasing a house jointly in his name and in the name of the second respondent. But, ultimately, he purchased a house only in his name. On 13.02.2003, when the second respondent was in the hospital for delivery, she was humiliated and assaulted by all the accused for having not taken a big room for her at the time of delivery. Subsequently, the accused retained the properties belonging to the second respondent and had driven out of her from the matrimonial home. With these allegations, the final report was filed upon which cognizance has been taken by the Trial Court.

5. In this Criminal Revision Case, the learned counsel appearing for the petitioners would submit that earlier, the second respondent had made a complaint to the Inspector of Police, All Women Police Station, Dindivanam, on 21.12.2005 and the same was received under petition No.201 of 2005 by the Inspector of Police. The said complaint relates to the dowry demand, harassment and retention of dowry articles. However, the said complaint was closed by the Inspector of Police, since the parties agreed to live together thereby forgetting their bitter past. The learned counsel would point out that in the said complaint, absolutely, there is nothing mentioned about the petitioners 4 to 7 herein. All the allegations of dowry demand, harassment etc., were only against the petitioners 1 to 3 herein. Thus, according to the learned counsel, when the present complaint was made subsequently, viz., after two years, on 12.01.2007, fresh allegations have been made against the petitioners 4 to 7 herein in order to rope in them also as accused. The learned counsel would further submit that as per the Judgment of the Hon'ble Supreme Court in State of Haryana and others Vs. Bhajan Lal and others, reported in 1992 Supp (1) SCC 335, the petitioners 4 to 7 are entitled for discharge, as the complaint made against them and the final report filed by the Inspector of Police against them are highly motivated and absolutely false.

6. The learned counsel appearing for the second respondent would vehemently oppose this Criminal Revision Case. He would submit that it is true that in the earlier complaint given to the Inspector of Police, All Women Police Station, only the petitioners 1 to 3 herein were arrayed as accused and the petitioners 4 to 7 herein were not arrayed as accused. However, he would submit that in the subsequent complaint, the involvement of the petitioners 4 to 7 brought on record, because on an



earlier occasion, the second respondent would not have thought of implicating all the accused. He would further submit that in the statements of the witnesses, the role played by the petitioners 4 to 7 have been clearly spelt out. Thus, according to the learned counsel, this is not a fit case to discharge the petitioners.

7. The learned Government Advocate appearing for the first respondent would reiterate the said arguments of the learned counsel for the second respondent and he would pray for dismissal of the Criminal Revision Case.

8. I have considered the above submissions. In Bhajan Lal's case, the Hon'ble Supreme Court has held that if the Court finds that the prosecution is based on no materials, then, it is for the Court to interfere with the same. In the case on hand, had it been true that the petitioners 4 to 7 also had any involvement in the crime, by all probabilities, the second respondent would have mentioned about the same in the complaint given in the year 2005 to the Inspector of Police, All Women Police Station, Dindivanam. After two years, when a fresh complaint is given, for the first time, there were allegations made against the petitioners 4 to 7 herein. Absolutely, there is no explanation for the same. This, by itself, would go to show that it is only an attempt to rope in unnecessarily the petitioners 4 to 7 as the accused. This gives an inference that the prosecution of the petitioners 4 to 7 is patently false. I find no materials against the petitioners 4 to 7 so as to impel them to undergo the ordeal of trial. In my considered opinion, allowing them to undergo such ordeal of trial will amount to abuse of process of law. Therefore, applying the yardsticks laid down by the Hon'ble Supreme Court in Bhajan Lal's case, I am inclined to allow this Criminal Revision Case in part and to discharge the petitioners 4 to 7.

9. In the result, this Criminal Revision Case is partly allowed in the following terms:-

(i). This Criminal Revision Case, insofar as it relates to the petitioners 1 to 3 herein, is dismissed as not pressed.

(ii). This Criminal Revision Case is allowed as against the petitioners 4 to 7 and the impugned order dated 20.05.2013 made in Cr.M.P.No.12744 of 2007 in C.C.No.132 of 2007, on the file of the Judicial Magistrate No.I, Kuzhithurai, as against the petitioners 4 to 7 is set aside and the petitioners 4 to 7 herein are discharged.

Sd/-

Assistant Registrar(CO)

\\True copy\\

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I, Kuzhithurai.

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

3.The Inspector of Police, All Women Police Station, Kuzhithurai.

Copy to: The Section Officer, Criminal Section, Madurai Bench of Madras High Court Madurai

+1cc to Mr.T.Arul, Advocate Sr.No.27189

+1cc to Mr.T.Murugan Advocate Sr.No.27174

ORDER MADE IN
CRL.RC.(MD)No.503 of 2013
DATED - 03.06.2015