

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1039 of 2015

&

M.P.No.1 of 2015

1.V.N.Rajarajan
2.V.Nagarajan
3.N.Rajani

...Petitioners/Accused 1 to 3

Vs.

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

2. R.M.Shridevi ... Respondents/Complainant & 2nd Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C.
against the order of XVII Metropolitan Magistrate, Saidapet,
Chennai - 15 dated 10.08.2015 made in M.P.No.1441 of 2013 in
C.C.No.831 of 2013.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.C.Iyyapparaj
Government Advocate [Crl.side]

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O R D E R

This revision challenges the order passed by the XVII
Metropolitan Magistrate, Saidapet, Chennai, in M.P.No.1441 of
2013 in C.C.No.831 of 2013 dated 10.08.2015.

2. The accused, namely the petitioner and his parents are
facing trial in C.C.No.831 of 2013 on the file of the XVII
Metropolitan Magistrate, Saidapet, Chennai pursuant to charge
sheet informing commission of offences u/s. 498-A and 406 IPC.

In CrI.M.P.No.1440 of 2013, the petitioner and his parents sought a direction under Section 205 Cr.P.C, while in CrI.M.P.No.1441 of 2013, they sought discharge. Paragraphs 1 and 2 of the common order reveals a pathetic state of affairs and is reproduced hereunder:

"Petition filed under Section 205 Cr.P.C and 239 Cr.P.C on 06.04.2013 by the A1 to A3. Notice was ordered to the prosecution to file counter in these two petitions. From 06.04.2013 till 25.07.2014 for about one year counter was not filed by the prosecution in these two petitions. Therefore the same was closed and posted for enquiry on 12.08.2014. From 12.08.2014 till 08.01.2015 neither the prosecution nor the counsel appearing for the accused commenced the enquiry and not submitted their arguments.

2. Since for six months the enquiry was pending before this Court, this Court closed the same and posted these two petitions for orders. The Main Case was numbered as C.C.No.831 of 2013 for the offence u/s.498-A, 406 IPC as against three accused. This case was taken on file on 22.03.2013 and pending before this Court for about two years. A2 and A3 are senior citizens aged about 56 and 50."

3. The Court below has allowed the petition filed under Section 205 Cr.P.C viz., CrI.M.P.No.1440 of 2013, while dismissing the petition seeking discharge. In doing so it has observed as follows:

"5.As far as the discharge petition is concerned at this stage of discharge it is the established principal that Court should not rely on any document's unless and otherwise prima facie substance is there to discharge the accused. As stated so in the petition this Court cannot peruse the FIR and the complaint and also the 161 statement to discharge the accused. Per contra the same documents can be utilized for making prima facie offences as against the A1 to A3. The learned counsel appearing for the A1 to A3 also apart from the 239 filed not submitted the arguments in detailed manner. If all the documents in the charge sheet is taken into consideration this Court finds enough material to charge the accused.

6.The charge sheet contains E-mail conversation between the complainant and the A1 and also marriage invitation. Registration certificate, the legal opinion of the prosecution side and the detailed complaint filed is enough for this Court not to

discharge the accused. Therefore, since the prosecution is not responding, 205 Cr.P.C petition can be allowed till the disposal of the case, but entirely all the accused cannot be discharged from the case, when no material substance produced except the 239 petition, discharge petition stands dismissed."

4. Though this Court is of the view that the Court below ought to have entered upon a discussion on merits at least prima facie, this Court is not inclined to accept this revision, since this Court finds that the charge sheet informs of the defacto complainant/wife having been threatened by her husband /A1 and also that the in-laws visited the paternal home of the defacto complainant and threatened of causing the marriage of the first accused to another, if the demand of Rs.15,00,000/- was not met. What offences, if any, actually stand committed is a matter for trial and it would always be open to the trial Court to appropriately alter charges, if need be.

The criminal revision is dismissed.

gpa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The XVII Metropolitan Magistrate,
Saidapet, Chennai - 15.
 2. -do- Thro' Chief Metropolitan Magistrate, Chennai.
 3. The Inspector of Police,
W-25, All Women Police Station,
T.Nagar, Chennai - 600 017.
 4. The Public Prosecutor, High Court, Madras.
- + 1 cc to Mr.R.Jayaprakash, Advocate Sr 3990
- + 1 cc to K.Sudharshena Sunder, Advocate Sr 3407

KR/4/2/16

Cr1.R.C.No.1039 of 2015