

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1500 of 2013

V.Dhanuskotti

S/o.Venkatesan Gownder

.. Petitioner/Defacto Complainant

vs.

1.Palanivel

S/o.Ramalingam

...1st Respondent/Petitioner/Accused

2.Station House Officer,

The Inspector of Police,

Kandachipuram Police Station,

Villupuram District.

Crime No.192 of 2011

..2nd Respondent/Respondnet/Complainant

Criminal Revision filed under Sections 397 r/w 401 Cr.P.C. against the order of Judicial Magistrate, Thirukovilur, passed in Crl.M.P.No.2926 of 2013 in C.C.No.14 of 2012 on 30.07.2013.

For Petitioner : Mr.R.Sasikumar

For Respondents: No appearance [R1]

Mr.C.Iyyapparaj,

Government Advocate [Crl.side] [R2]

O R D E R

This revision challenges the order of learned Judicial Magistrate, Thirukovilur, passed in Crl.M.P.No.2926 of 2013 in C.C.No.14 of 2012 on 30.07.2013, discharging the second respondent of charges u/s.365 and 498 IPC.

2. Petitioner is the de facto complainant in Crime No.192 of 2011 on the file of the second respondent. In brief, the case of the prosecution is that the second respondent/accused, taking advantage of the family dispute between the victim and her husband/de facto complainant and with wrongful intention, took the victim on 29.06.2011 and detained her till 30.07.2011. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.365 and 498 IPC, the case was taken

on file in C.C.No.14 of 2012 on the file of learned Judicial Magistrate, Thirukovilur. Second respondent/accused moved C.M.P.No.2926 of 2013 seeking discharge, which came to be allowed under orders dated 30.07.2013. Hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side] for second respondent.

4. In allowing the discharge petition, the Court below has found that having had the knowledge of his wife having been kidnapped by the accused, on the very next date of occurrence i.e. on 30.06.2011, the petitioner/de facto complainant has preferred the complaint only on 12.07.2011. The delay properly has not been explained. This apart, the victim, in the confession statement, has admitted to having gone with the second respondent/accused on her own volition. Two sets of 161 Cr.P.C. statements of the de facto complainant were recorded by the investigating officer. However, the date and time of such statements have not been mentioned. In the absence of details, it was difficult to arrive at a finding whether the discharge of the other accused in the case was in order or not. The investigating officer has failed to put his signatures in the documents prepared by him, which would exhibit the improper investigation in the case. The Court below further found that though initially the victim has been arrayed as an accused and her confession was recorded, subsequently, she has been treated as victim and her 161 Cr.P.C. statement was recorded. Despite the direction of the Court, the prosecution has failed to produce the attendance register to prove that the investigating officer was relieved from duty on 30.07.2011. On the above reasoning, the Court below arrived at a finding that the prosecution has failed to establish its case and accordingly, discharged the second respondent from all charges. This Court finds no error in the order under challenge.

This Criminal Revision stands dismissed.

sd/-
Assistant Registrar (Cs-V)

/TRUE COPY/

Sub-Assistant Registrar

gm

To

- 1.The Judicial Magistrate,
Thirukovilur.
- 2.The Inspector of Police,
Kandachipuram Police Station,
Villupuram District.
- 3.The Public Prosecutor,
High Court, Madras.

+1 CC to MR.V.R.Appaswamee Advocate. SR.NO.356

Cr1.R.C.No.1500 of 2013

CO-GR
JD 27/01/2016



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